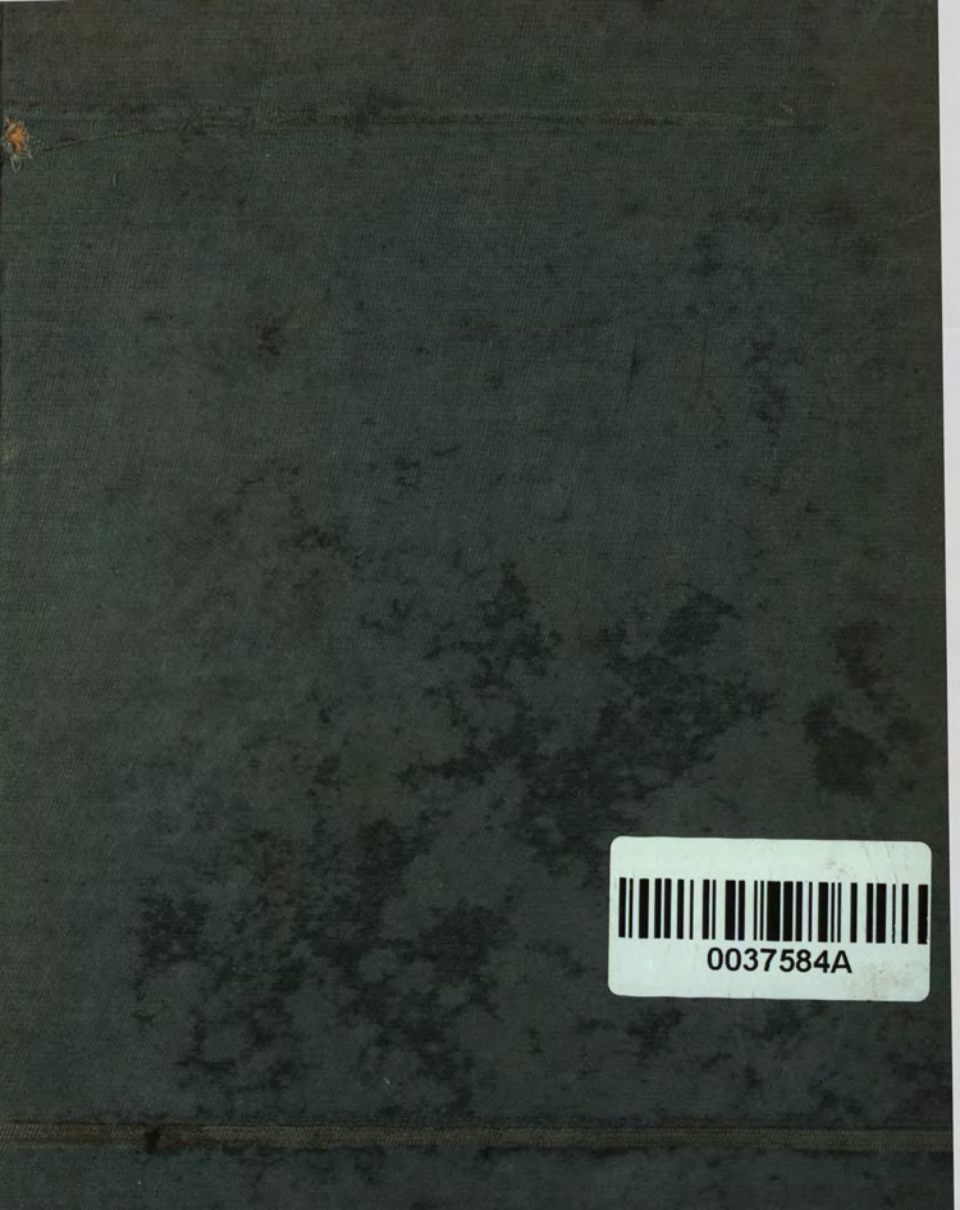
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THE

HISTORY

OF THE

BRITISH EMPIRE IN INDIA.

BY

EDWARD THORNTON, Esq.,

AUTHOR OF "INDIA, ITS STATE AND PROSPECTS," &c. &c.

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LONDON:
WM. H. ALLEN AND CO.,
7, LEADENHALL STREET.

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APPENDIX.

APPENDIX.

DISSENT *by the* CHAIRMAN (C. Marjoribanks, Esq.) *and* DEPUTY CHAIRMAN (W. Wigram, Esq.)*

WE considered it to be our duty to submit the motion which was negatived in a committee of the whole Court on Friday last, the 7th instant, because we desired to maintain to the full extent what we conceive to be the views of the general court by their resolution of the 3rd of May, in which resolution we entirely concurred.

We consequently withheld our signatures from the report which submitted the resolution passed in the committee for adoption by the court.

The court having adopted it, we feel compelled to place upon the records of the Company our dissent, for the following reasons, *viz.*

1st. Because, although we are prepared to admit that considerable modifications have been made by his Majesty's ministers in the plan, as originally proposed, we still think, with reference to the general court's proceedings, that the proprietors, both in justice and equity, are entitled to have the sum of three instead of two millions set apart as a guarantee fund for their capital stock, particularly when we consider the readiness with which the propositions of his Majesty's ministers have been met by the Company consenting to place in abey-

* See page 314.

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2ndly. Because we are of opinion that some legislative provision for giving publicity in certain cases of difference between the Board of Commissioners and the Court of Directors, is indispensable for maintaining the independence of the court, and consequently for the good government of India. For unless it is known that the two co-ordinate authorities act under a positive responsibility to parliament, the paramount authority may enforce their views and opinions, however contrary to good government or wholesome rule, without the possibility of the legislature becoming acquainted with the facts, by the ministers refusing the production of the papers connected therewith to parliament. Nothing can more clearly substantiate the truth of this position than what has already taken place with reference to the papers now before the general court, and which have been printed at the instance of the proprietors.

We allude to those relating to the pecuniary claims of British subjects on the native princes of India, and to the writ of mandamus on the affairs of Messrs. William Palmer and Co. of Hyderabad. In the former is the case of the Lucknow bankers, which originated so far back as the year 1797. The claims of these parties have been pressed upon the Court of Directors on various occasions during the last twenty-two years. The court have invariably declined giving any countenance or support whatever to these claims, and the Board of Commissioners have confirmed the views of the court.

In April, 1832, after a lapse of ten years, the court

were called upon by the Indian minister to depart from that course, and to frame a despatch according to the tenour prescribed by the board, which was "to instruct "the supreme government to press upon the serious at- "tention of the King of Oude a claim which ought to "have been discharged thirty years ago."

At the date of this communication from the board there were two cases before parliament involving claims of British subjects against native princes; the one on the Zemindar of Noozeed, and the other upon the Rajah of Travancore.

The court endeavoured to convey to the president of the Board of Commissioners, and through that right honourable gentleman to the rest of his Majesty's ministers, in a letter of the 9th May, 1832,* the conviction which they entertain of the pernicious tendency of the principle involved in all those proceedings. It would only weaken the force of that remonstrance to quote merely a part, and we therefore rest upon the whole as presenting irrefragable arguments in support of the court's opinion. The president waived all discussion as to the merits of the claims of the Lucknow Bankers,† but expressed dissent in every respect from the view taken by the court, and the requisition that the court would prepare a despatch was repeated. The court not having prepared instructions to the Bengal government, the board, on the 15th December (seven months afterwards) sent down a despatch with directions that the court should forward the same.

The court still felt that the question as to the policy, as well as the right of the British government to exert its authority with the Sovereign of Oude for the satisfaction of the claims in question, was long ago "accurately

* Page 1 of the printed papers respecting pecuniary claims of British subjects on native princes of India, &c.

† Page 45, letter from the president, dated the 14th May.

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considered, deliberately decided, and solemnly and finally closed;"* and they represented to the board the strong apprehension which they entertained from establishing such a precedent, and concluded by expressing their full assurance, that the considerations urged by the court against the despatch sent down by the board would receive careful and deliberate attention, and "judging by the conviction they have produced in themselves, they cannot but entertain the strong hope and expectation that they will make a similar impression on the minds of the commissioners."†

We trust that the arguments of the court have not been urged without effect, as the board have paused in enforcing their order of December; but what, we may ask, would have been the case, had there been a president of the Board of Commissioners determined, without awaiting such representation, or giving attention to it when made, to enforce the transmission of the despatch?

It is against such a possible exercise of power, and in the event of such power being exercised, that the facts shall reach parliament, that we contend for the rule of publicity.

The case also of Messrs. William Palmer and Co. forms another instance in which the exercise of absolute power may compel the court, under the proposed scheme, to send out a despatch, although contrary, in their opinion, to every principle of justice, and which may be calculated to lower the character of the British government throughout India, without the same coming before parliament.

The right of appeal which the court at present possess, affords the means, though not in our judgment sufficiently ample, to get the matter of a despatch, on which an extreme difference of opinion shall exist, before the

* Page 53 of the printed papers. † Page 71 of ditto.

public; but this will cease under the new order of things.

Objections on the score of political expediency may be urged against the proposition; but we think the provisions might be sufficiently guarded to prevent any ill effects, whilst its very existence would, in our judgment, tend more to insure an abstinence from acts which would bring the authorities within its operation, than any other measure which can be devised as a substitute; whilst promptness in decision would be promoted, justice would be readily afforded, and heavy law charges avoided.

It is not without feelings of sincere regret that we find ourselves placed in opposition to the opinion of so large a majority of our colleagues; but we think that we should not discharge our duty to the Company, to India, or to the British public, were we not thus to express our conviction as to the necessity of instituting means whereby parliament shall, in certain cases, acquire a direct knowledge of the measures of that branch of the executive government of this country, under whose control the affairs of India are administered.

(Signed) C. MARJORIBANKS,
W. WIGRAM.

East-India House, the 10th June, 1833.

Some of the cases quoted in the above paper have been already noticed in either the text or notes. The general reasoning contained in the letter which is referred to, bearing date 9th May, 1832, entitles it to be subjoined, as well for its own merits as for the elucidation of the point in dispute between the court and the board.

APPENDIX. LETTER *from the* CHAIRMAN *and* DEPUTY CHAIRMAN *to the* PRESIDENT *of the India Board.*

SIR: East-India House, the 9th May, 1832.

The proceedings which are now pending in parliament on the claims of Mr. Hodges on the Zemindar of Nozeed, and of Mr. Hutchinson on the Rajah of Travancore, and the communications which the Court of Directors have recently received from the board and from yourself, respecting the claims of Messrs. W. Palmer and Co. on some of the Nizam subjects, and those of the Lucknow bankers on the King of Oude, appear to the court to be of such a nature, as to make it their indispensable duty to endeavour to convey to you, and through you to the rest of his Majesty's ministers, the conviction which the court entertain of the pernicious tendency of the principle involved in all those proceedings and communications.

The pecuniary transactions of British subjects in India, Europeans and natives, with native states or the subjects of those states, in which the interference of the British government has occasionally been sought, are of three kinds, *viz.*

Claims on states whose territories have been subsequently transferred to the Company.

Claims on states in alliance with the Company; and

Claims on the subjects of the British government, or on those of its allies.

With respect to the first class, the Company having become possessed of the territory, may in equity be expected to discharge, out of the revenues of that territory, the just debts of its former possessor, provided the same be judicially proved, and that the creditors agree to such equitable terms of settlement as may be suited to the new

and advantageous position in which the transfer of the country has placed them in point of security. Such was the arrangement made with the creditors of the Carnatic and of Tanjore. A commission was constituted to investigate the origin, justice, and amount of, and finally to adjudicate, the pecuniary claims in those countries. The first duty prescribed to the commissioners was to trace, in each case, the original principal sum advanced by, or due to, the claimant; and when that was satisfactorily ascertained, the commissioners were authorized to add simple interest, at rates of four, five, and six per cent. in the case of the great body of creditors, a few only being allowed twelve per cent., and that for a very limited period. The result of this investigation, as respects the Carnatic creditors, has been, that of claims aggregating thirty millions sterling, little more than one-twelfth has been admitted: the remainder have been totally rejected. We call your special attention to this important and most instructive fact, as strikingly illustrative of the general character of the money transactions of individuals with native states.

In proceeding to remark upon the second class of claims, *viz.* those on states in alliance with the Company, the court trust that they may be permitted to inquire whether, if the Carnatic had remained subject to the nabob, and if the pecuniary claims upon him to the amount of thirty millions sterling, investigated by the Carnatic commissioners, had been pressed, as they doubtless would have been, upon the authorities in this country, you, Sir, would have proposed that the British government should interfere on behalf of such creditors; still less, that they should interfere without judicial inquiry, and call upon the nabob to satisfy their demands? or whether his Majesty's ministers would have countenanced proceedings in parliament tending to such a result?

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Cases of alleged hardship, as strong as any now brought forward, would have been urged: bonds would then, as now, have been produced, and plausible appeals made to the justice of the government. Let it be supposed that, in the case which we have thus put, the Board of Commissioners had resolved to coerce the nabob (as they now wish to do in analogous cases), and compel him to pay the whole amount claimed, what would have been the consequence? The result of the investigation of the Carnatic commissioners, shewing that nearly eleven-twelfths of the claims were bad, is the best answer to that inquiry. A small proportion of just debt would, indeed, through our interference, have been recovered; but at what a cost to our ally! at what a sacrifice of character to ourselves! How grossly would the power of the British government have been exercised to oppress its weaker neighbour, whom it was bound by treaty, and even in common justice, to protect! And how would the revenues of the Carnatic have been exhausted, to satisfy demands either altogether unfounded, or consisting chiefly of interests heaped upon interests! We well know that nothing could induce you to run the risk of such injustice; and we press the example upon you, to shew that we cannot interfere in any of these transactions without incurring a similar risk. The court do not forget that, previously to the assumption of the Carnatic by the Company, parliament interfered so far as to direct an inquiry into the private debts of the Nabob of Arcot, with a view to their settlement; but we are sure we need do no more than advert to the enactment, and the purpose to which it was applied. Recollecting the memorable proceedings upon that subject in the House of Commons, in February, 1785, the court do not apprehend that such a precedent will be quoted in support of a system of interference in similar cases now.

The court have no hesitation in stating their decided conviction, that interference in these matters is unjustifiable; and they confidently appeal to you, whether it be not the practice, even of the British government, to decline interference with their European allies, on behalf of individuals who have voluntarily risked their money in foreign loans, and whose position as creditors has not been affected by any of the political measures of Great Britain.

If such be the practice of the states of Europe, whose relative position towards each other places them more or less upon a footing of equality, and enables them to exercise a discretion in admitting or rejecting claims, even after interference has been exercised, it surely cannot be becoming in the British government, possessing as they do in India power absolutely predominant, to adopt a different practice, and to interfere with the weak and helpless native states on behalf of claimants who embarked freely with their eyes open, and solely with a view to their own interests, in pecuniary speculations in which our government took no concern, and of which, in point of fact, it had no cognizance; merely because some of those speculations have turned out unfortunately for the adventurers.

It is well known how easily the native governments, from their dependence and the painful feeling of insecurity which haunts them, take the alarm, and with how much dread they regard every thing which has a tendency to bring them into a collision with our government, whose study, therefore, it has been to limit, as much as possible, the number of points of contact. So sudden and so great a departure from this line of policy as would be implied in the exercise of our interference in private matters, whether pecuniary or otherwise, would assuredly excite distressing apprehensions in the minds

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of our allies, and involve our government in constant embarrassment.

Neither can the court admit that the cases of the private creditors of the Indian states are such as to call for the interposition of the supreme authority, even if it could be afforded without gross injustice to those states, and the greatest embarrassment and discredit to ourselves. When an individual contracts pecuniary engagements in a foreign country, he subjects himself, *quoad* those transactions, to the laws and usages of that country, to which, if he be injured, he must apply for redress. It is no sufficient answer to this argument, that the law or the usages of the foreign country are defective, since an individual must be presumed to have informed himself upon points of that nature before he invested his property. The rates of interest observed in all the transactions in question are such as would neither have been paid nor demanded without extraordinary risk; and it seems to us to be most unreasonable to expect that the British government should use its power to favour the pretensions of individuals to all the advantages, and to relieve them from all the risk and disadvantages of such speculations.

It can scarcely be necessary for us to point out, that a resolution now to interfere would be very inconsistent with the invariable practice of the court, which has received the sanction of successive Boards of Commissioners for the affairs of India. If the cause of the Lucknow bankers is to be taken up as you propose it should be, what can the court say to the representatives of Sir Harry Darell, or to those of Colonel Frith, Major Webber, Captain Edwards, and many others, on whose behalf the British government, when solicited, has refused to lend its good offices with the vizier? or, how will it be possible to resist the multi-

tude of dormant claims, not only upon Oude, but upon other native states, which are known to exist on the part of Europeans, and also of natives, who are equally entitled to consideration with the Lucknow bankers? It is clear to the court, that if the authority of the government were to be employed in the one case, it would be immediately asked, and could not be refused, in others, and that demands would arise which it would ruin our allies to meet. In short, Sir, the court would do you injustice if they permitted themselves to think that you had any adequate idea of the mischief that would result from the adoption of the course which you recommend, a course diametrically opposed to that prescribed for the conduct of the Bengal government in the political despatch regarding the claims of the Lucknow bankers, dated the 12th of February, 1819, in which you will find the following emphatic passage, to which, as having been inserted by the board whilst the late Mr. Canning was its president, the court attach more than ordinary importance:—"We are so much aware of the difficulty of divesting a friendly communication to a weaker power of the character of authority, and are so apprehensive that the consequence of pressing upon the vizier the consideration of those claims might bring upon him others from various quarters, that we direct you to rest contented with the attempt you have already made, and to abstain from any similar proceedings hereafter, at the instance either of these or any other claimants."

The court are aware that it has been said that the loans of British subjects to native states have, in some cases, been directly beneficial to the Company. They oppose to this assertion the declaration of parliament (37th George III. cap. 142, sect. 28), that that practice

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" has been productive of much mischief and is the source of much usury and extortion."

Undue importance has, in the court's judgment, been attached by claimants and their advocates to the circumstance of the claims having arisen previously to 1797, when the law to which we have referred was passed. That enactment was, indeed, only prospective, and did not profess to affect the past transactions of individuals. It left them, in point of law, precisely where it found them, but with a legislative declaration of their impolicy and impropriety. To contend that it improved their situation is a strange perversion of a law, the declared object of which (sect. 28) was effectually to stop a destructive practice, which the " wholesome orders of the court had not been sufficient to restrain and repress." If a measure of interference in favour of the claimants had been thought right (and it was quite as necessary for them in 1797 as at present), parliament would surely have authorized it. Was any such authority given or contemplated? The whole tenor of the proceedings of the legislature proves the contrary; and it would be rather extraordinary if, after the lapse of a long series of years, when the sources of information have for the most part ceased to be available, recourse should now be had to a system of interference, neither countenanced nor contemplated at a time when parliament was legislating upon the subject of transactions of this kind, and when the circumstances of most of the cases might have been ascertained with comparative facility.

The objections which the court have taken to interfere in the claims on our allies apply, with even increased force, to claims on their subjects. However justifiable it may be in peculiar cases, such as that of the trustees of Messrs. W. Palmer and Co., to suggest a method for set-

tling a difficult and an embarrassing question (and the court, in the draft which they submitted, did this to the utmost extent that they could think just or politic), we cannot too earnestly deprecate the idea, now for the first time seriously advanced in the paragraphs as altered by the board, of using the authoritative interference of the British government in such a matter. What would be said if the government of England were to call upon any of its allies in Europe to require one of their subjects to settle accounts with a British subject? and that is precisely what the board wish to be done towards the Nizam. Nay, the proposal goes even further; for whilst it contemplates relieving the parties from all risk of loss, it actually fixes the rate of interest "according to the usage of the country," in which the risk being great, the rate was proportionally extravagant; and this would, if acted upon, authorize an adjudication of interest to the trustees of Messrs. W. Palmer and Co. to almost any extent. "The usage of the country" might have been argued in favour of the Carnatic creditors; and it is the conviction of the court that, if the origin and progress of the claims of Europeans or natives upon native states, or the subjects of those states, were fully investigated, it would be found, as it was in the case of the Carnatic, that they were either wholly unfounded or principally composed of accumulated interest. The court cannot understand how, upon any principle of justice, we are to interfere to obtain for the creditors of native states, or of their native subjects, terms which were denied by ourselves to the Carnatic and Tanjore creditors; or why the authority of the British government is to be interposed, to place a British subject in a better situation than the subject of a native state, in recovering a debt from it or one of its subjects.

With respect to claims upon our own subjects or upon

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the Company, such as that of Mr. Hodges, we will only further observe, that if the ordinary legal tribunals of the country are insufficient for the investigation and adjustment of them (a fact which the court are by no means prepared to admit), the defect should be remedied, and other and more appropriate means devised than committees of parliament appointed at the instance of the claimants themselves, and in which it is not possible that a judicial investigation can be satisfactorily conducted.

It will not, we are persuaded, be thought by you, that the court are influenced upon these subjects by any narrow and misplaced considerations affecting the pecuniary interests of the Company. Although the adoption of the principle which you have urged would probably lead to the exaction of many millions sterling from the natives, yet, in point of fact, the Company are not, nor can they be, otherwise interested in the subject, than as it may affect the prosperity of India. An interference with our natives allies will cause them to be impoverished and discontented, and thus the character of our government will be implicated and our political relations deranged. Claims upon the Indian territory, if conceded, will injure our native subjects, by preventing relief from, or causing increase of taxation; and if the pressure should become to them intolerable, the crisis will arise at which this country must interpose financial aid.

We confidently trust that these contingent evils will all be averted by the determination of the king's government to co-operate with the court in steadfastly maintaining, as well in correspondence with the local governments as in discussions in parliament, when claims are brought forward there, the principle of non-interference in the pecuniary transactions of the native states. If unhappily that should not be the case, the whole responsibility of any measure of interference must rest

upon those who, in spite of the warning which experience affords, shall determine to venture upon its adoption. It will then be some consolation to the court to reflect that, in making this representation, they have discharged an important duty to themselves and to the people of India.

We have, &c.

(Signed) J. G. RAVENSHAW,
C. MARJORIBANKS.

The Right Hon. Charles Grant, M.P.
&c. &c. &c.

An outline of the "Nozeed Affair" has been presented in a note at page 243 of vol. ii. It may not be inexpedient to exhibit it more at large as laid open in the following papers:—

REPORT *of the* COMMITTEE *of* CORRESPONDENCE.

At a Committee of Correspondence, the 27th September, 1831.

The chairman calling the attention of your committee to the appointment of a select committee of the House of Commons to consider a bill "for providing for the discharge of a claim in respect of monies advanced by the late James Hodges, Esq., on security of the lands of the late Zemindar of Nozeed and Mustaphanagur, in the district of Fort St. George in the East-Indies, now under the sovereignty of the Honourable East-India Company," and informing your committee that the parties at whose instance the bill was first introduced have suggested many material alterations therein, your committee deem it to be their duty now to lay before the court their sentiments upon the subject of that proceeding.

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The bill, as it stood for the second reading, alleged, as the ground of the claim, that Mr. Hodges had advanced money to the zemindar for the express purpose of enabling him to pay his tribute to the Company. The court felt, that if that allegation could be distinctly proved, although it would not afford any pretence in law or in equity for demanding reimbursement out of the Company's funds, yet that there might be some consideration due to the claim as against the zemindar, and therefore the court abstained from petitioning against the bill upon its second reading. But in the bill, in its altered shape, that ground is abandoned, and it is simply alleged that, in consequence of Mr. Hodges's loan, the zemindar was the better enabled to acquit himself of his pecuniary obligations to the Company. If the bill had proceeded upon this ground in the first instance, the court would assuredly have taken measures to oppose the second reading, as they could not for an instant have tolerated the principle, that the Company were to interfere for the payment of the private debts of a zemindar, much less, that they were themselves to pay those debts, merely upon the plea that he, by contracting them, obtained a facility to discharge debts due to other persons.

The bill, in its original state, must, in the committee's judgment, have been rejected, since the allegation upon which it rested could not be substantiated; and if the select committee should present the bill as altered, and the house should permit it to pass, the Company will, by an alteration made *after* the second reading, have been deprived of the opportunity of being heard by counsel at the bar of the house against the principle of the measure; a privilege never, it is believed, denied to the meanest subject of the crown, when it is sought to attack his interests in any way, but more especially when the object is, as in the present case, to establish by a private bill a

pecuniary claim to which he would not otherwise be liable.

With regard to the merits of the case, as developed in the papers laid before the committee, it may be desirable, in the first instance, to state the names and situations of the parties implicated in the transactions which gave rise to Mr. Hodges's claim. They are as follow:

Opparow, the Zemindar of Nozeed, an estate ceded to the Company under the treaty with the Nizam in 1766.

Mr. John Whitehill, chief of the council at Masulipatam, who were intrusted with the management of all the Company's business with Opparow.

Right Honourable John Sulivan and Mr. James Hodges, both members of that council.

Colonel Flint, the military commandant in the district of Masulipatam, and

Sawmy Pillah, an inhabitant of Masulipatam, who at one time rented the zemindarry of Nozeed.

It is asserted on behalf of Mr. Hodges, one of the parties here named, that in 1775, when he was appointed to the Masulipatam council, he took upon him certain debts said to be due by the zemindar to three others of those parties, *viz.* Mr. Whitehill, Mr. Sulivan, and Colonel Flint; and that he (Mr. Hodges) lent Opparow further sums, the whole of which, with interest upon them, were subsequently consolidated into one sum of 57,666 Madras pagodas, for which Opparow gave his bond; and this statement, so far as respects Mr. Whitehill and Mr. Sulivan, is confirmed by the latter gentleman, who is still living, and who has stated in evidence before the select committee, that the object of the loans was to enable the zemindar to give a bonus to his bankers to induce them to become security for the payment of his tribute to the Company, and thus to prevent the sequestration of the zemindarry.

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It is therefore apparent, that the claim originated in money dealings between the servants appointed to manage the Company's affairs at Masulipatam, and one of the zemindars under the immediate control of those servants.

Mr. Hodges, in a letter to the Madras government of the 11th December, 1784, reported that these transactions were "carried on and avowed openly, not merely with the knowledge and concurrence, but with the assistance of government;" and in a memorial to the court of the 4th of May, 1793, he stated, "that he carried on his concerns with Opparow in the face of day, and with the sanction of government."

In making these assertions, Mr. Hodges must have forgotten that, according to his own account, dated the 11th of December, 1784, his last advance to Opparow, or on his account, was made in 1776, and that it was not until 1777, after all the money had been lent, that he himself placed upon record the transactions; which he then did, for the express purpose, as stated by him, of "ensuring the future sanction of government;" and in a letter addressed by him in the same year to the Chief of Masulipatam, stating the amount of his claim, Mr. Hodges said, "I give you this official information, that our debt, and the mode of its being provided for, may be completely public;" and again, in the statement delivered in by him in 1784, he declared, "My demand on him (Opparow) then growing immense, and with no prospect of immediate relief, I brought my situation before government."

Combining this evidence, furnished by Mr. Hodges himself, with the facts not only that no sanction of the transactions whilst they were taking place is to be traced, either on the records, or in the evidence given before the select committee, but also that Mr. Sulivan, when asked

if the practice of making loans to the zemindars was at all encouraged by the Indian governments, distinctly replied, "Certainly not;" your committee feel themselves bound to assume, that when these money dealings with the zemindar took place on the part of Mr. Whitehill, Mr. Sulivan, Colonel Flint, and Mr. Hodges, they were not only unsanctioned by, but unknown to, the local government.

They were first officially communicated to the council of Masulipatam in 1777 by Mr. Hodges, upon the occasion of Mr. Pringle, Mr. Hodges, and his soucar, Verdedoss, having most irregularly assumed the entire superintendence and management of the zemindarry, which was then declared by Mr. Hodges to be "first responsible to the Company," and afterwards to be liable for the debts of Messrs. Hodges and Pringle and the soucar. This arrangement appears to have been sanctioned by Messrs. Pringle and Desvœux, both members of the Masulipatam council, the former of whom was directly concerned in loans to the zemindar.

Two years were suffered to elapse before the Masulipatam council made any communication upon the subject to the government of Madras, and they were at length apprized of it in 1779, only in consequence of their having themselves called the particular attention of the Masulipatam council to the distracted and deranged state of Opparow's zemindarry. A report was then made to the government, in which the Masulipatam council mentioned Opparow's heavy debts, and proposed that the Company should take possession of the zemindarry, and appropriate the revenues first to the payment of their annual tribute, and of one-fourth per annum of the arrears until discharged; secondly, to the maintenance of the zemndar; and, lastly, the surplus, if any, to the creditors. It is worthy of observation, that in this

APPENDIX. report from the council of Masulipatam (of which both Mr. Hodges and Mr. Pringle were members), no mention whatever is made of their being creditors, or of their having assumed the superintendence of the whole zemindarry. The only notice at all applicable to their case is in the following paragraph, in which no names were mentioned:—"The payment of these (private debts) belonging to the other class, has been provided for by an agreement of some years' standing, and in this manner certain villages have been assigned over to them by Opparow, to the amount nearly of 10,000 pagodas per annum. Although this is by no means an equivalent to what they might have expected, considering the amount of the sum which they claim as due to them, they are satisfied, nevertheless, to remain upon this footing."

The Madras government replied on the 23rd of June, 1779, approving the arrangement proposed by the Masulipatam council, and recommending as managers for transacting the business Messrs. Hodges and Pringle, a recommendation which (although, indeed, Mr. Whitehill was then in council at Madras) it is hardly conceivable they would have made, had they known how these gentlemen were involved in money dealings with the zemindar.

Upon obtaining the approbation of the Madras government, the Masulipatam council entertained a proposal from Sawmy Pillah to rent the zemindarry, instead of the Company's managing it themselves; and in that proposal Sawmy Pillah offered, "For the debt due to Messrs. Hodges and Pringle, he" (Sawmy Pillah) "makes over wholly and entirely all the villages of Vyoor, amounting in a good season to about 15,000 pagodas." This proposal having been communicated to the Madras government, they (Mr. Whitehill being

second in council) were of opinion, that the Masulipatam council should be left to exercise their own judgment in the matter, and accordingly signified their approval, provided sufficient security were found for the regular payment of the Company's demands. The Masulipatam council, therefore, accepted the proposal of Sawmy Pillah, who, as the renter, placed Mr. Hodges in possession of the villages, which he continued to hold until 1784, when Lord Macartney, the governor of Madras, recorded a Minute, in which, after declaring "every kind of money transactions with the zemindars have been strongly prohibited by the Company; such dealings are injurious at all times, but when they are carried on by the very persons who are themselves intrusted with the collection of the public revenue, the pernicious tendency of them is considerably increased by the influence which those persons derive from official authority;" his lordship referred to the recognition by the government in 1779, of "any part of the transactions," as "extraordinary," as it appeared to him to be "unwarranted in its principle, and pernicious in its tendency." Considering, however, what had been done in 1779, Lord Macartney proposed, and the government resolved, to address a letter to the Masulipatam council, in which, after describing the nature of the transactions, and of the recognition of them in 1779, they said that the creditors to whom districts were mortgaged under the sanction of government, could have "no claim to the assistance of the Company but upon the following conditions, viz. First, that they cheerfully acquiesce in the surrender of the districts which they have so long and, under the circumstances above mentioned, so irregularly held under their management; secondly, that they deliver in a state of the rise and progress of their demands; and, from the time they

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were liquidated by authority, a regular annual account current, specifying the receipts and balances."

In consequence of these instructions, the Masulipatam council, on the 7th December, 1784, issued a notification, of which the following is a copy:—"Notice is hereby given, that the right honourable the president and council have been pleased to order that the creditors of Opparow, to whom districts in the zemindarry of Nozeed are mortgaged under the sanction of government, be called upon for an account of their receipts and balances stated yearly, to shew that no more than legal interest has been charged, and that the zemindar has had due credit given him for the revenue collected from the mortgaged districts; and that in case of a refusal the assignments be dissolved; also that the creditors can have no claim to the future assistance of the Company but on the following conditions:—

"1st. That they cheerfully acquiesce in the surrender of the districts which they have so long held under their management.

"2nd. That they deliver in a state of the rise and progress of their demands; and, from the time they were liquidated by authority, a regular annual account current, specifying the receipts and balances.

"That, upon these conditions faithfully performed, his lordship, &c., have expressed their willingness to recommend their case to the Company, and to establish such provision for them as can with any propriety be set apart from the superior demands of the Company. But with regard to the crop on the ground in the mortgaged districts, the creditors can for the present only be allowed the first cost and charges of sowing it; and if the accounts required from them appear satisfactory, the whole produce will be accounted for to them as received by the Company.

"The chief and council hereby require an immediate compliance, on the part of the creditors of Opparow, with the above orders of the right honourable the governor in council, viz. that they do forthwith surrender up and relinquish all claims upon such districts as have been mortgaged to them, and that they do, as soon as possible, send in accounts as above specified; also, that no person may at any time hereafter have any ground for pleading ignorance of the intention of government, the chief and council hereby notify, in the most public manner, that all such creditors of Opparow as shall not send in their accounts regularly drawn out in the form prescribed by the governor in council by the 15th of January next, will from that time be considered as having no title or claim to the assistance of government in the recovery of their debts, and no right or title by virtue of any mortgage or assignment made them by Opparow."

It will be observed, that this notification of the Masulipatam council, whilst it recognized the mortgage as "under the sanction of government," avoided all mention of that which the government in their instructions had declared, viz. that the districts had been "so irregularly held" under the creditors. The sanction, it will have been already observed, amounted to nothing more than an approval of a proposal from Sawmy Pillah to become the renter, in which proposal he declared his intention to alienate certain villages. The condition of the arrangement being that the Company should be secured, Sawmy Pillah of course could only alienate for the time that he had possession; and it will be apparent, on reference to the despatch from Fort St. George dated the 11th February, 1785, para. 10, that in 1785 Sawmy Pillah's possession had ceased, as the collection of the revenue

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was then "intrusted to tannadars, under the joint control of the dewan of the young zemindar, and of a manager appointed on the part of the Company;" besides which, the Madras government, having the admitted power of approving the mortgage, possessed the power also to dissolve it, which power, it will be seen, is distinctly asserted in the notice before quoted, and nowhere questioned or denied by Mr. Hodges.

Upon the conditions which have been enumerated, the Madras government promised to recommend the case of the creditors "to the Company, and to establish such provision for them as can with any propriety be set apart from the superior demands of the Company. But with regard to the crop on the ground in the mortgaged districts, the creditors can, for the present, only be allowed the first cost and charge of sowing it; and if the accounts required from them shall appear satisfactory, we have resolved that the whole produce be accounted for to them as it may be received by the Company."

It may be supposed from the passage here quoted, that the government had contemplated, temporarily at least, the setting apart some portion of the revenues for the creditors, even previously to the full liquidation of all the Company's demands. Such an idea may have arisen in the first instance from a mistaken notion of the amount of revenue which the zemindarry would yield, which, in their despatch to the court, dated the 11th of February, 1785, is stated to have been greatly over-estimated; but in the same despatch, after explaining that Mr. Hodges had been allowed the crop, the government, without expressing a syllable of intention to establish any further provision for the creditors, observed, "the districts taken from Mr. Hodges are now in possession of the Company, and until the public balance is

fully discharged, which will require many years to accomplish, all the private creditors of Opparow must remain in common upon the same footing."

A communication to that effect was accordingly made by the Madras government to the Masulipatam council, who conveyed it to Mr. Hodges, telling him distinctly, "you must wait until the heavy public balance, due from the zemindarry of Nozeed to the Company, is discharged, before your case can again become an object of deliberation." It is worthy of remark, that this communication, addressed to Mr. Hodges as a creditor, bears the signature of Mr. Hodges as the chief at Masulipatam.

Mr. Hodges does not appear ever to have considered that the government had pledged themselves to allow him any thing until the Company's claims should be discharged. He remained in India until 1791, and never urged such a pretension; nor is it discoverable in any of the applications made to the court by him or by his successors. Indeed, it is quite obvious that no provision could have been made by Lord Macartney's government, which would have been practically of the least benefit to Mr. Hodges; for it cannot for an instant be supposed that that government, disgusted as they evidently were with the transaction, could ever have contemplated the waiving of the government right of priority to a greater extent than had been, as already observed, proposed by the Masulipatam council, or, in other words, by the parties themselves in 1779; viz. the creditors to come in after the Company had received their regular tribute and one-fourth per annum of their arrears; and if this had been the final arrangement, Mr. Hodges would not have been in any respect better off than he is, the Company's receipts not having amounted to that proportion.

The question then is, even so far as respects Mr. Hodges' claim on the Zemindar of Nozeed—have the cir-

APPENDIX. cumstances of the case been such, that the Company's prior claims upon the zemindar either have been or could have been satisfied?

This claim amounted to 1,01,821 pagodas of annual tribute, and an account has been produced which shews that, up to 1808, the payments for that tribute had proved deficient in the sum of 4,87,915 pagodas. In 1803 the permanent settlement was introduced into the northern circars, and the rent fixed for the Zemindarry of Noozed was 88,000 star pagodas per annum, which is 13,821 star pagodas less than the former tribute; and the Madras government perceiving that the discharge of the old balance was incompatible with the punctual realization even of this reduced rent, determined to relinquish their claim to their arrear. The object of this arrangement was, as stated in a despatch from the government of Madras, dated 22nd February, 1803, to establish "the best foundation of individual wealth;" and it cannot be contended that the creditors are entitled, in consequence of the Company having from such a motive given up their claims, to be placed in any better predicament than that in which they formerly stood.

If the Company had not relinquished their claim to arrears, there is not the most distant reason to believe that any considerable progress would have been made in their discharge, much less that they would have been altogether liquidated; whilst there can be no doubt that the relinquishment has been beneficial to the zemindarry, which must consequently be in a better state to meet the demands of private creditors than it could have been, if the Company had drained its resources to pay their arrears.

Neither can it be said that the Company unreasonably pressed upon the zemindarry previously to 1803. If the tribute had, from the first, been fixed at 88,000 star

pagodas per annum, to which it was reduced in 1803, the amount from 1774 to 1803 would have been 25,52,000 pagodas. The accounts shew that the sum which the Company actually received fell short of that amount.

From the foregoing narrative, in which the committee have endeavoured to state the facts of the case with strict impartiality, it must be evident to every unprejudiced mind, that the claim originated in transactions of the most reprehensible nature; and whilst the committee would never urge this consideration as a bar to the strict fulfilment of whatever government may have become pledged to do, yet the claimants ought, in such a case, to be left to prosecute their claim under existing laws. To make a law expressly for the occasion is a measure of extraordinary indulgence, to which it surely cannot be said that the parties to the present claim have the slightest pretension.

It is further evident, that any claim which the estate of Mr. Hodges may have in this case must be upon the zemindar, and not upon the Company. To compel the Company, by an arbitrary enactment, to pay a debt due by another person, is a measure to which your committee cannot believe that parliament will ever give its consent. It is nowhere asserted, much less proved, that the Company ever contemplated taking upon themselves the private debts of the zemindar. Their government did, indeed, recognize these debts as due from the zemindar, and the propriety of their being ultimately discharged, but this sanction cannot by any construction be made to imply the remotest idea of paying the debt out of any other funds than the revenues of the zemindarry, after satisfying all the Company's demands. The most cursory perusal of the papers will shew that the parties always looked to the zemindar for payment, and pleaded the

APPENDIX. government sanction only as the ground for the Company's interference and assistance.

The question as to Mr. Hodges' claim was always, in his mind and that of his representatives, one of time, dependent on the prior discharge of the Company's claims on the zemindar; and it has been clearly shewn in this paper, that those claims have never been discharged, nor could they have been, if the Company had continued to enforce them.

Upon the whole, therefore, your committee cannot but regard the proposed bill as a most unwarrantable attempt to make the revenues of India answerable for a private debt, and to confer an undue benefit on parties who have no other claim whatever to consideration, than that of having, by irregular means, obtained a recognition by government of dealings of such a character, as to call, not for approval and encouragement, but for the severest reprehension.

Your committee therefore submit to the court the expediency of their recording their earnest protest against the proposition, as unjust in itself, and as involving a most injurious precedent.

PETITION *to the* HOUSE *of* LORDS.

To the Right Honourable the Lords Spiritual and Temporal of the United Kingdom of Great Britain and Ireland in Parliament assembled.

The Humble Petition of the United Company of Merchants of England trading to the East-Indies,

Humbly Sheweth:

That a bill is now pending in your right honourable house, entitled "An Act for providing for the discharge of

a Claim in respect of Monies advanced by the late James Hodges, Esq., on security of the lands of the late Zemindar of Nozeed and Mustaphanagur, in the district of Fort St. George, in the East-Indies, now under the government of the Honourable the East-India Company."

That the said bill having been read a second time in your right honourable house, the same was referred to a committee thereof, for the purpose of enabling the promoter of the said bill to prove his case before the said committee.

That your petitioners have understood and believe, that the said committee are about to report to your right honourable house, that the promoter of the said bill has proved in the preamble thereof, with the exception of the last passage in the first paragraph in such preamble, and that the same has been altered accordingly in the said committee.

That at the time of issuing the order of the president and council of Madras of the 25th day of November, 1784 (hereinafter mentioned), the debt claimed by Captain James Arthur Murray, the promoter of the said bill, was due (if due at all) from Macca Narsinva Opparow, formerly Zemindar of Nozeed and Mustaphanagur, within the presidency of Madras, to Mr. James Hodges, in whose right the said Captain Murray claims to be entitled to the debt.

That the effect of the said bill, if it should pass into a law, will be to compel your petitioners to pay the private debt of the zemindar.

That your petitioners have not, *by any contract*, become liable to pay the said debt.

That your petitioners have not, at any time, possessed or received any part of the property or possessions of the zemindar, to which they had not, *by the direct admission*

APPENDIX. *of Mr. James Hodges himself*, a right preferable to that which he claimed in respect of the said debt.

That your petitioners have not, by any act whatever, deprived Mr. James Hodges, or those who represent him, of any right or remedy which he or they possessed against the zemindar, his property *or* possessions, for recovering the said alleged debt.

That the claim of Mr. James Hodges against the zemindar, amounting to 57,666 Madras pagodas, 34 fanams, and 40 cash, was made up as follows:

1st. In part of a sum of 2,750 pagodas, alleged to have been advanced by Mr. James Hodges to the inhabitants of Opparow's country.

2nd. In part of the claims of other persons against the zemindar, for monies advanced by them to him, and which claims *were assigned by such other persons to Mr. James Hodges;* and,

3rd. As to the residue of interest on the before-mentioned sums.

That the persons whose claims against the zemindar were so assigned to Mr. James Hodges appear, by his own representations, to have been John Whitehill, Esq., John Sulivan, Esq., Colonel Flint, and Arthur Sinclair, Esq.

That the said John Whitehill, at the time of his making the advances to the zemindar which the said Captain Murray now claims, by virtue of the assignment thereof to Mr. James Hodges, was the chief of the council of Masulipatam, afterwards president of the council at Fort St. George.

That the said John Sulivan was also a member of the said council of Masulipatam; and that the said Colonel Flint was in the military service of your petitioners, and employed in the forces stationed in the northern circars;

and that the said Arthur Sinclair was in the civil service of your petitioners.

That from the year 1773 until 1786, Mr. James Hodges was a member of the council of Masulipatam.

That the terms and rate of interest at which the aforesaid advances were made by the said Mr. John Whitehill, Mr. John Sulivan, Colonel Flint, and Mr. Arthur Sinclair, to the zemindar, have not been disclosed by the promoter of the bill; but from the only evidence to which, at this distance, your petitioners can refer (that of official documents) it appears that a *part only of Mr. Sulivan's claim* against the zemindar was assigned to Mr. James Hodges, and that a *share of the same claim* was assigned to Mr. Alexander Pringle; and that the *share so assigned to Mr. Alexander Pringle originally carried interest at twenty-four per cent. per annum;* and that the same, and even a higher rate of interest, was charged against the zemindar by other persons at that time.

That, from the circumstances last adverted to, and the character of the pecuniary transactions in which European money-lenders were engaged with the native powers and zemindars in India, your petitioners confidently believe that, if the origin of the claims of Mr. James Hodges were investigated (which it never has been), it would appear that the same were of a nature which no court of law or equity would sanction or enforce.

That the promoter of the said bill has relied upon certain transactions which took place in India at the time Lord Macartney was governor of the presidency of Madras, as having given an *ex post facto* sanction to his claim, and as protecting the origin of such claim from investigation.

That your petitioners scarcely deem it necessary to observe, that the effect of such sanction, if admitted, could

APPENDIX. have done no more than remove objections to which the claim of Mr. James Hodges, as a servant of your petitioners, would otherwise have been subject *as against the zemindar*, and could not have made your petitioners liable to the payment thereof; which, in fact, Lord Macartney had not, and never assumed the power to do.

That the origin of the said claim was *not* investigated by Lord Macartney.

That the acts of Lord Macartney, relied upon by the promoter of the bill as having given an *ex post facto* sanction to the said claim, proceeded, on his part, upon the supposition that the said claim had received the sanction of a former government.

That the only sanction the said claim appears to have received from any government anterior to that of Lord Macartney, were acts of those governments of which Mr. Whitehill and Mr. James Hodges were members.

That at the time of the alleged sanction being given to the said claim by Lord Macartney, the tribute or land revenue and assessment due from the zemindar to the government for the zemindarry which he rented from your petitioners, at certain fixed annual rates agreed upon, were greatly in arrear.

That the right of the government in India to be paid such arrear of tribute, *singly and in the first instance*, before any of the private creditors of the zemindar were paid, was asserted by Lord Macartney, and never disputed by Mr. James Hodges, and was in repeated instances *expressly and voluntarily admitted by Mr. James Hodges himself.*

That Lord Macartney never held out to Mr. James Hodges any expectation that his claim *would be paid by your petitioners*, or any expectation whatever, except the expectation that, when the public balance due from the

zemindar was discharged (which it never has been), his case should become *an object of deliberation with the council of Fort St. George.*

That in the month of June, 1779, the territories of the zemindar were sequestered by government, to recover payment of the stipulated tribute or assessment due from the zemindar. This sequestration was the act of the council of Masulipatam, of which Mr. James Hodges was a member.

That the villages holden by Mr. James Hodges in the month of November, 1784, the surrender of which was demanded by Lord Macartney, at that time were holden by Mr. James Hodges under the government of Madras, as sequestrators of the territories of the zemindar, and not under the zemindar. In support of which last allegation your petitioners humbly crave your lordships' attention to the following facts:—

In or previously to the month of July, 1777, the eight pergunnahs of Opparow were put under the management and superintendence of *Mr. James Hodges* and *Mr. Alexander Pringle,* the co-assignee of Mr. Sulivan's debt.

The precise time that Opparow's eight pergunnahs remained under the management and superintendence of *Messrs. Hodges* and *Pringle* does not appear; but it appears that in the month of November, 1778, his country was divided, and under the management of different persons.

In the month of June, 1779, the territories of the zemindar were sequestered, as before mentioned, by the recommendation of the council at Masulipatam, of which Mr. James Hodges was a member, to obtain payment of the public debt.

The management of the territories of Opparow under the sequestration was offered to Messrs. Hodges and Pringle, but they did not accept it.

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It being considered the most beneficial mode of obtaining the benefit of the sequestration, and at the same time most agreeable to the zemindar, that his territories, whilst under sequestration, should be rented rather than kept under the management of government, the proposals of a person of the name of Swaumy Pillee, for renting the zemindarry, were accepted by the government of Fort St. George.

At the time of the lease to Swaumy Pillee, it was expected that the arrears of tribute due from Opparow to the government would be paid off in four years; and on that expectation, the government of Fort St. George consented that Swaumy Pillee should make over to Messrs. Hodges and Pringle certain villages, part of the territories of which Swaumy Pillee was lessee.

The villages so made over by Swaumy Pillee to Messrs. Hodges and Pringle (and which they held under and at the will of the government) were the same villages, the surrender of which was demanded by Lord Macartney.

That the possession of the same villages by Mr. James Hodges, from the month of July, 1779, until the month of November, 1784, was an act of bounty on the part of the government, and a voluntary concession of their prior rights, and which, by the established principles of equity, the government was at liberty to determine at its pleasure.

That Mr. James Hodges was permitted to remain in possession of the said villages until the month of November, 1784, when the exigencies of government made it an imperative act of duty to enforce its paramount claims, and the irregularity of such permission appears to have been severely censured by Lord Macartney.

That, contrary to the expectations entertained by the government of Fort St. George in the month of June, 1779, and in the month of November, 1784, the arrears

of tribute due from the zemindar increased from that time.

That from the year 1784 down to the time of the permanent settlement of 1803, the arrears due from the zemindar gradually increased, and at the date of the permanent settlement the amount of arrears due from the zemindar to the government was 4,87,915 pagodas.

That the assessment or tribute payable by the zemindars of India, previously to the permanent settlement of 1803, was from time to time arranged by government with the zemindars.

That the assessment or tribute at which the zemindar of Nozeed was assessed was, as your petitioners believe, a proper and moderate rent, and proportionate to the value of his territories; and Mr. Hodges, and the members of the council of Masulipatam, were the persons whose duty it was to regulate the same at a just amount.

That Mr. James Hodges, though a resident in India and a member of council, never alleged or pretended in his lifetime, that he had any claim against your petitioners founded upon a supposed excess of tribute demanded of the zemindar.

That the real cause of the inability of the zemindar to pay his tribute was his own improvident and rebellious conduct.

That your petitioners cannot, in justice to themselves, forbear observing, that by means of advances made to the zemindar, he was enabled to persevere in the course of extravagant conduct to which they have before adverted, *ruinous to himself, and seriously injurious to the interests of the country and of your petitioners*, inasmuch as he was by such advances enabled to divert the revenues of his country, which ought to have been applied to the pay-

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ment of his tribute, to the support of rebellion against the government.

That the said *Messrs. Hodges* and *Pringle* had many transactions with the zemindar on their own account, *subsequently to the time of the assignment to them of Mr. Sulivan's claim.*

That the monies received by *Messrs. Hodges* and *Pringle*, whilst the eight pergunnahs of Opparow were under their management, ought, as your petitioners are advised, to have been applied in payment of their earliest debt, namely, that which they claimed by assignment from Mr. Sulivan and others.

That in the month of November, 1784, the debts which Mr. James Hodges claimed by assignment were principally insisted upon and submitted to Lord Macartney; and the actual transactions between *Messrs. Hodges* and *Pringle* themselves and the zemindar were withdrawn from his notice.

That money transactions between zemindars and members of council were prohibited by the government of India, and were inconsistent with the duties of a member of council; and, in particular, by an order of the Court of Directors, dated 11th June, 1777, issued to the government of Fort St. George, the receipt of which was acknowledged by Mr. Hodges on the 17th December, 1777, it was ordered, "That no Company's servant, or any person under the Company's protection, be permitted to lend money to any of the country powers in India, nor to any person or persons holding commissions under, or employed by them, directly or indirectly, to be repaid at a future time, on mortgages, or securities in the nature of mortgages upon lands, or from the produce, or any growing revenue of the country. In direct violation of which regulation, the representatives of Mr. Hodges set up a

mortgage security dated in August, 1779, and allege that Mr. Hodges was then permitted by the government of Fort St. George to enter upon the possession of the villages, from which he was removed by Lord Macartney and the government in 1784.

That on the 7th April, 1792, Mr. James Hodges presented a memorial to your petitioners, asking their assistance in procuring the restitution of the said villages.

That on the 7th day of May, 1792, your petitioners communicated to Mr. James Hodges, in writing, their resolution not to comply with the request contained in his memorial.

That on the 4th May, 1793, Mr. James Hodges again presented a memorial to your petitioners, asking compensation for the loss sustained by him in respect of the said claims.

That on the 9th May, 1793, your petitioners communicated to Mr. James Hodges, in writing, their determination not to make him any compensation in respect of his said claim.

That in the month of September, 1794, Mr. James Hodges died.

That in the month of January, 1801, Mrs. Ann Hodges, the widow and personal representative of Mr. James Hodges, presented her memorial to your petitioners, praying them to take her case into their consideration, and to grant her relief in respect of the said claim.

That on the 26th day of January, 1801, your petitioners communicated to Mrs. Ann Hodges, in writing, their resolution not to comply with the prayer of her memorial.

That in the year 1803 the permanent settlement was introduced into the territories under the presidency of Fort St. George, in which the zemindarry of Nozeed is situated, and your petitioners, on that occasion, relin-

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quished the aforesaid balance of 4,87,915 pagodas, which then remained due to them from the zemindar for arrears of tribute, and restored his family to the possession of the zemindarry of Nozeed and Mustaphanagur.

That the relinquishment by your petitioners of the aforesaid arrears of tribute, and the restoration of the family of Opparow to the zemindarry of Nozeed and Mustaphanagur (attended as it was with sacrifices so great to themselves), were acts which nothing could have induced on their part, but a sense of what was due from them in the discharge of their first and highest duty, the due administration of the government and the affairs of India.

That, in the present case, Mr. James Hodges and those who represent him have not, in fact, sustained any damage or prejudice by the acts of your petitioners.

That until the instrument was produced in your lordships' committee on this bill, your petitioners were ignorant that the said James Arthur Murray held any instrument of mortgage of any part of the territories of the zemindarry of Nozeed.

That notwithstanding the positive refusal of your petitioners to entertain the memorial of Mr. James Hodges in the years 1792 and 1793, and of Mrs. Anne Hodges, his widow and personal representative, in the year 1801, no application has been made to your petitioners on the subject of the said claim from the 26th January, 1801, until the present time.

That the said claim, if valid now, was equally valid at the date of the permanent settlement of 1803.

That if the circumstances under which Mr. Hodges was removed by the government of Fort St. George from the possession of the said villages amounted to an agreement, by which your petitioners became responsible to Mr. Hodges for the debt of the Zemindar of Nozeed, upon

any event which has happened, such agreement might have been enforced against your petitioners in the courts of law and equity in India, and in this country, to which your petitioners are amenable.

That after the great length of time (now nearly half a century) which has elapsed since the transactions in question took place, it is impracticable for your petitioners fully to investigate or ascertain the truth of the case.

That your petitioners humbly submit, that in a case like the present, in which your lordships are called upon not to enforce, but to create a right, it is incumbent on the promoter of the bill not only to prove a case for charging your petitioners, which they humbly submit he has not done, but to prove a case free even from suspicion, and also to explain and justify the unprecedented delay, by which alone your petitioners feel themselves greatly aggrieved.

Your petitioners, therefore, most humbly pray your lordships that they may be heard by their counsel against so much of the said bill as affects their rights and interests, and that the said bill may not be read a third time in your right honourable house; and that your petitioners may have such relief in the premises, as to the justice and wisdom of this right honourable house shall seem meet.

And your petitioners, as in duty bound, will ever pray, &c.

May, 1832.

The bill, it will be remembered, passed, and the people of India had to pay the representatives of Mr. Hodges.

The nature of the claim of Mr. Hutchinson on the Rajah of Travancore is shewn in the following papers:

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LETTER *from the* CHAIRMAN *and* DEPUTY CHAIRMAN *of the East-India Company to the* PRESIDENT *of the India Board.*

SIR: East-India House, 28th February, 1833.

We have the honour, at the request of the Court of Directors of the East-India Company, to call your immediate and particular attention to the circumstance of leave having been given to introduce a bill into the House of Commons, for favourably adjusting the claim of the estate of the late Mr. John Hutchinson upon the Rajah of Travancore.

The court's sentiments upon the subject of this claim, generally, are recorded in a report from the committee of correspondence, dated the 11th of April, 1832, a copy of which we enclose.

Since the date of that report, certain accounts have been produced to the parliamentary committee of last session on behalf of the claimant, which appear to the court so materially to strengthen the view which they before took of the subject, that they have requested us to submit to you the following statement of the result of their examination of those accounts, as shewing, contrary to the allegations of Mr. Hutchinson in his petition to the house, that the debt which he claims to be due to the estate did not arise from "money advanced to the rajah," and as also affording an insight into the objectionable nature of his transactions with that prince.

The amount of this debt is 4,89,735 Surat rupees, according to the professed settlement of accounts made with the Rajah of Travancore, by Mr. George Parry, on behalf of Mr. Hutchinson's estate, on the 13th of March, 1800; but this sum of 4,89,735 rupees is the balance of a great many entries, reaching back as far as the com-

mencement of the year 1792. In the running account with the rajah, the total of the charges against that prince is 9,59,143 rupees, and the total of the credits 4,69,408 rupees, leaving, as aforesaid, a balance against him of 4,89,735 rupees.

The charges against the rajah consist of the following items. The first entry is:—

	Surat rupees.
An unexplained balance, the date annexed to it, 16th February, 1792	69,443

Then follow:

Charge for a horse sold to the rajah's minister ...		700
140 candies of pepper sold to the rajah ...		23,800
A piece of taffaty ditto		14
Profit charged on pepper not really sold ...		43,335
Balance of an account with the rajah's minister transferred to the debit of the rajah, what or wherefore *not explained*		11,004
Ditto ... ditto ... ditto ...		32,446
500 candies of light pepper sold to the minister, but charged to the rajah himself		95,000
Penalty charged against the rajah for not having paid an amount borrowed, whereas the accounts (as the preceding entries testify) do not shew that a single rupee had been lent to him ...		25,000
Interest at 12 *per cent.* on the preceding sums		20,046
Further interest, at what rate or on what sums not stated		60,198
Due for gain, cassia, coir, cables, ropes, and *loose coir*, sold by his dewan, ESTIMATED! ...		1,00,000
Exchange charged against the rajah		7,805
Payments to the rajah on account of a *pepper contract*	50,000	
	36,000	
	3,757	
	1,50,000	
(for pepper) ...	10,560	
		2,50,317

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	Surat rupees.
Forfeit by the rajah, in consequence of the non-delivery of pepper by him	69,240
Interest at 10, 12, and 18 per cent. per annum upon the above payments to the rajah ...	1,50,796
Total charges against the rajah ...	9,59,143

The items composing this total may consequently be thus classed :—

	Surat rupees.
Unexplained balance opening the accounts, professed date 16th February, 1792	69,443
Balances of accounts with the *rajah's minister transferred* to the *debit* of the *rajah himself*, wherefore or on what account not explained	43,450
A *horse* and *pepper sold* to the *minister*, but *charged* to the *rajah himself*	95,700
Due for *gain*, *cassia*, *coir*, *cables*, *ropes*, &c. &c. sold by the minister, ESTIMATED !	1,00,000
Profit charged on *pepper not really sold*, *penalty* for not having paid a sum said to have been borrowed by the rajah, and *forfeit* by the rajah for not having delivered pepper	1,37,575
Interest on the account against the rajah, on what sums and at what rate partly not explained, and including interest at 18 PER CENT.	2,31,039
Exchange charged against the rajah	7,805
Pepper, &c. sold to the rajah	23,814
Cash advanced to the rajah in consideration of an agreement made by him to deliver pepper ...	2,50,317
Total ... Surat rupees	9,59,143

It thus appears, that of the aggregate debit against the rajah made by Mr. Hutchinson, and amounting to nearly 9,60,000 rupees, only 2,74,131 rupees was for

goods sold and cash advanced to the rajah, the remainder consisting of balances unexplained, and transferred from an unknown account with the minister of assumed profit, forfeits, and penalties, and of interest. It is therefore fully established by the accounts of the claimant, that the debt of 4,89,735 rupees, now claimed on behalf of Mr. Hutchinson's estate, did *not* arise from "money advanced to the rajah."

It has been already stated, that the total credits to the rajah, in the account with Mr. Hutchinson, amounted to 4,69,408 rupees.* Now, of what do they consist? The *actual cash* paid by the rajah to Mr. Hutchinson was 4,20,000 rupees; value of *pepper delivered*, 44,008; exchange, 5,400 rupees. Thus, while the rajah received cash and goods to the amount of only 2,74,131 rupees, he paid to Mr. Hutchinson in cash and goods 4,64,008 rupees, and yet a debt is still claimed from him of 4,90,000 rupees! Might it not rather be said, that if strict justice were to be done on the occasion of ripping up these old transactions, the Rajah of Travancore would have something to receive from Mr. Hutchinson's estate instead of something to pay thereto?

The court wish also to point out to you the *nature* of the *trade* of Mr. Hutchinson with the *Travancore Rajah*, as elucidated by the accounts of the complainant himself. In the first place, we find from those accounts that Mr. Hutchinson, on the 30th of April, 1793, charged the rajah with *profit* upon *pepper* which he had promised to deliver. The rajah could not fulfil both his contracts to the Com-

	Surat rupees.
* Total debits	9,59,143
Do. credits	4,69,408
Debt now claimed	4,89,735

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pany and his promises to Mr. Hutchinson, and therefore Mr. Hutchinson, whose official duty it was to see that the rajah delivered pepper to the Company in preference to all other persons, entered in his accounts, to the debit of the rajah, a sum of 43,335 rupees for profit which he assumed he should have made of the pepper if it had been delivered, and this expected profit forms part of the debt now claimed.

But, further, it is apparent from the accounts, that a system of mutual accommodation subsisted between Mr. Hutchinson and the rajah; that is, sometimes the rajah sold pepper to Mr. Hutchinson, sometimes Mr. Hutchinson sold pepper to the rajah. But what were the terms of this exchange? Why, on the 7th of June, 1792, the rajah sold Mr. Hutchinson 496 candies of pepper at 84 rupees per candy. On the 30th of August in the same year, he sold him 26 candies at the same price, and on the 26th of July, 1793, two candies more at the same price. Here was a fixed price at different times, and the evils of fluctuation in the market were effectually prevented in the sales by the rajah to Mr. Hutchinson.—But let us turn to the other side, and view Mr. Hutchinson as the seller instead of the rajah.—On the 31st October, 1792 (the *same year*), he sold to the rajah 140 candies of pepper at 170 rupees per candy, and on the 30th April, 1793, charged him with an assumed profit, calculated at the same price, upon an imaginary transaction in pepper. And further, on the 30th April, 1795, he again sold the rajah 500 candies at 190 rupees per candy; and then, on the 20th November following, contracted with the rajah to deliver him 500 candies (the same quantity) at only 130 rupees per candy!! Thus the same pepper which in the rajah's warehouses was originally worth only 84 rupees and 130 rupees a candy, went to Mr. Hutchinson, and was again lodged in those very warehouses worth 170 and 190 rupees.

Lastly, we find that Mr. Hutchinson, in October, 1795, charged the rajah with no less than a lac of rupees for *estimated* gain upon ropes, loose coir, and cables; that at the close of the same year he advanced to the rajah, under cover of a pepper contract never fulfilled, two lacs and a half of rupees, the only cash with which Mr. Hutchinson ever parted; and that, on the 13th March, 1800, his estate received back four lacs and twenty thousand rupees, being the above principal, with a real interest thereon of more than 16 per cent. a year.

We have no doubt that the foregoing statement will satisfy you that Mr. Hutchinson has not the slightest pretence to the relief which he claims from parliament; and as the principle of requiring the Indian government to exercise interference with our ally in support of such claims, and ultimately to pay the amount out of the Indian revenues if the rajah fail, is in the highest degree objectionable, and fraught with mischief and injury to those whom we are bound to protect, the court confidently rely on your resisting the second reading of the bill, against which they have resolved to petition.

The success which so unfortunately attended a recent case of the same kind, notwithstanding the powerful opposition given to it, in principle and in detail, by the Lord Chancellor, has shewn the expediency of resisting in their earliest stages these dangerous attacks on the revenues of India, or of those of the native states; and the court trust that, upon this occasion, the King's ministers will be enabled to render the attempt futile by objecting to it *in limine*.

We have, &c.

(Signed) J. G. RAVENSHAW,
C. MARJORIBANKS.

The Right Hon. Charles Grant, M.P.

&c. &c. &c.

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REPORT *of the* COMMITTEE *of* CORRESPONDENCE.

At a Committee of Correspondence, the 11th April, 1832.

Pursuant to the court's references of the 9th of November and 14th of December last, your committee have taken into consideration letters from Mr. Bury Hutchinson, dated the 8th of November and 9th of December, transmitting in the former a printed statement of his case, and in the latter a copy of a petition which he has presented to the House of Commons, soliciting that his alleged grievances may be redressed.

It will be observed from the statements contained in a subsequent part of this report, that the subject of Mr. Hutchinson's claims on the Rajah of Travancore first came under the court's consideration in 1807, and that their proceedings on that occasion were framed from a desire to obtain perfect information before any definite measures were adopted.

The following is a narrative of the circumstances of the case:

Mr. Bury Hutchinson is stated to be the legal representative of the late Mr. John Hutchinson, of the Bombay civil service, who held the office of commercial resident at Anjengo. At that time there was no political officer of the British government stationed at the court of Travancore. The Company were in the habit of contracting with the Travancore state for the supply of pepper and cloth for their annual investments, and the arrangement of these contracts brought Mr. Hutchinson into frequent communication with the rajah and his minister.

Under these circumstances, Mr. Hutchinson appears to have entered into private commercial dealings with the Rajah of Travancore. The precise terms and extent of these dealings are not clearly developed; but from the

statements at different times furnished by Mr. Hutchinson's representatives, it would seem that he lent money to the rajah, and also made engagements, in his private capacity, with that prince, for the supply of pepper, the same article which, as commercial resident at Anjengo, it was his duty to provide for the Company's investment.

Your committee deem it important here to remark, that by the court's orders to the government of Bombay, dated the 4th of July, 1777, all loans of money by the Company's servants "to any of the zemindars or people in government were positively forbid in future, on pain of suspension from our service;" and with respect to transactions in pepper, the article which it was Mr. Hutchinson's principal duty to see was regularly delivered to the Company, it is observable that, in the year (1795) in which Mr. Hutchinson entered into a pepper contract with the rajah in his private capacity, which involved the forfeiture by his highness of pecuniary penalties in the event of the pepper not being delivered, Mr. Hutchinson, in his public capacity as commercial resident, actually informed the Bombay government (*vide* Bombay Commercial Consultations, 15th May, 1795) that he apprehended the rajah was intending to "defraud the Company of their rights by gaining time to dispose of their pepper in other channels. Indeed," added Mr. Hutchinson, "from what Mr. Dyne writes, there is pepper lodged on several parts of the coast, and he has actually been shipping off at Aleppie. I am persuaded the dewan has received more money for pepper, both from the Company and others, than he is able to furnish of that article, and wishes to give all parties a proportion this year."

Towards the close of the year 1797 Mr. Hutchinson died, and a few months after the rajah died also.

A considerable debt was at this time claimed to be due to Mr. Hutchinson, and it appears that his representative

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appointed the house of Messrs. Forbes and Co. at Bombay to act for his estate, and that they nominated Mr. George Parry (who had succeeded to the situation of commercial resident at Anjengo) to arrange Mr. Hutchinson's affairs with the government of Travancore. Accordingly, in 1800, a statement of the account between the parties took place; the result of which was, that after giving the rajah credit for a sum of 4,20,000 rupees paid by him to Mr. Hutchinson in 1796, there remained a balance due to the latter on the 13th March, 1800, of 4,89,734 Surat rupees, interest included. It was then agreed that this balance should be liquidated by instalments;* and that if these instalments were regularly paid, no further interest should be charged. In pursuance of this arrangement a payment of rupees 1,00,000 and three payments of 60,000 rupees each (2,80,000 rupees in all), appear to have been made to Mr. Parry by the Travancore rajah on account of the estate of Mr. Hutchinson; in consequence of which the balance claimed as due to the estate was by the year 1803 reduced to 2,09,734 Surat rupees. At this period Mr. Parry quitted the commercial residency of Anjengo, and Mr. Handley, his successor in office, was immediately nominated by Messrs. Forbes and Co. to act (conjointly with Mr. Snow, second assistant at the Anjengo factory) on behalf of Mr. Hutchinson's representatives, in recovering the balance

* 2,00,000 rupees in 1800
60,000 by 30th April 1801
60,000 1802
60,000 1803
60,000 1804
49,734 1805

4,89,734

which still remained due from the Rajah of Travancore. Thus far matters had advanced, when the circumstances took place which brought the claim to the notice of the Bengal government. So far back as the year 1799 a regular political functionary had been permanently stationed at the court of Travancore, but in 1803 the governor-general in council (Marquis Wellesley) judged it necessary, owing to the prevalence of intrigues at that court, which were considered hostile to the public interests, to confine all intercourse with the rajah's durbar to the official channel of the resident. In consequence of this restriction Messrs. Handley and Snow (agents for Mr. Hutchinson's estate), on the 14th May, 1804, transmitted to the resident an application to the Dewan of Travancore for payment to them of a fifth instalment of the debt due to the estate. Major Macaulay (the resident) immediately forwarded a copy of this application to the Bengal government; and on Messrs. Handley and Snow making a second communication to him, a correspondence ensued between them on the subject of the claim, the whole of which was also forwarded to Bengal. The supreme government, on the 19th July, 1804, informed the resident that they approved his having declined to interfere in the adjustment of the demand brought forward, and directed him to inform Messrs. Handley and Snow that no interference on their behalf would be allowed till the government should be satisfied that their claim was founded in justice, and of such a nature as to require a deviation from the general principles of policy which regulated the conduct of the government towards states in alliance with it. Further correspondence thereupon took place with Messrs. Handley and Snow, and the subject was also brought to the notice of the Travancore government by the resident. Documents were produced by these gentlemen in support of the claim, while, on the

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On a review of all these proceedings, the authorities in India at length came to a decision, in the year 1807, that in the existing state of the question the parties should be left to settle the claim between themselves.

The subject was brought to the court's notice by the Madras government in political letters, dated the 6th March, and 21st October, 1807. The court, in reply,* after remarking on the defective nature of the information regarding the origin of the claim, desired that the Bombay government should be called on to state whether they had any knowledge of money transactions between the late Mr. Hutchinson and the Rajah of Travancore, and directed, in the meantime, that the resident should not only be restrained from interference in the adjustment of the claim, but enjoined to recommend to the rajah to decline any further payment on account of it, until its justice was made out to the satisfaction of the Madras government.

The reply of the Bombay government to the reference made to them added little or nothing to the information before the court on the subject. The chief point to be noticed in it is, their admission that the *fact* of dealings between the late Mr. Hutchinson and the Rajah of Travancore must have been within the knowledge (*as individuals*) of the parties composing the Bombay government, the trade in pepper or other products in Travancore not having then been interdicted to the commercial residents.

On the 9th September, 1812, the court, in a political despatch to Madras, again adverted to the claim brought

* Political Despatch to Madras, 7th September, 1808.

forward by the representatives of Mr. Hutchinson, and directed that another reference should be made to the Travancore government, in order to procure an elucidation of its rise and progress. The required information not having been received, and in the meantime the representative of Mr. Hutchinson having twice memorialized the court on the subject, these orders were repeated on the 20th October, 1819, 11th April, 1821, and 5th March, 1823; and at length the Madras government, in a letter dated the 24th December, 1822, laid before the court all the information which could be obtained from the records of Travancore regarding the transactions between that state and the late Mr. Hutchinson, of Anjengo. The contents of this communication failed, however, to throw any further light on the origin and nature of those transactions.

The court, in finally reviewing the subject, on the 12th May, 1824, fully concurred in opinion with the Madras council, that "the pretended debt to the late Mr. Hutchinson, even granting it to be in other respects unquestionable, was not of a character to receive the countenance of their government, and to be insisted on through its agency." On the other hand, they agreed to modify that part of their instructions of 7th September, 1808, in which it was enjoined that the Rajah of Travancore should be recommended to decline any further payment to Mr. Hutchinson's heirs till the justice of the claim was made out to the satisfaction of the Madras government, and expressed their wish to be to leave the parties entirely to themselves, and to abstain from all interference in the matter one way or the other.

The government of Travancore, however, not having been induced to make any further payment on account of this claim, the representative of the late Mr. Hutchinson has now petitioned the House of Commons to in-

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terfere in his behalf. The following appear to be the principal grounds on which the interference of the legislature is solicited:—

That the transactions out of which the debt claimed from the Rajah of Travancore arose were *bonâ fide*, that they took place before the passing of the Act of 1797, which prohibited loans from British subjects to native princes, and that Mr. Hutchinson's advances to the rajah were, in great part, for the purpose of enabling the latter to fulfil his political engagements and commercial contracts with the Company.

That, on the 13th March, 1800, the existence of a balance of 4,89,735 rupees due to the estate of Mr. Hutchinson was admitted by certain officers of rank appointed by the rajah's nephew and successor to investigate the accounts of the foregoing transactions, and that payments to the amount of 2,80,000 rupees were subsequently made by the rajah as part of the said balance.

That the Court of Directors, in a despatch of the 7th September, 1808, prohibited the Rajah of Travancore from making any further payment to Mr. Hutchinson's representatives, until the justice of the claim was established to the Madras government, thereby preventing such payment at a time when the rajah was able and willing to make it.

That at length, after many years had elapsed, the court* withdrew the recommendation which they had caused to be transmitted to the rajah in 1808, and expressed their wish to leave the parties entirely to themselves; but that this act of the court could in no degree conduce to the attainment of justice, while, at the same time, it must be taken as an admission that no reasonable doubt could be raised respecting the debt; and, lastly,

* In 1824.

That the Company virtually adopted the said debt when they took possession of the territories and revenues of Travancore.

The two inquiries which appear to suggest themselves in this case are: What evidence is there to shew that the representative of Mr. Hutchinson has a just claim upon the government of Travancore? and, secondly, Can the Company be considered at all responsible for the payment of any such claim, or bound to enforce, or even recommend the payment of it by the rajah's government?

In answer to the first inquiry thus much must be conceded: that the Rajah of Travancore, with whom it is alleged that the late Mr. Hutchinson had pecuniary dealings, appears, either by himself or his minister, to have admitted the existence of such dealings, and that very nearly to the extent of which Mr. Hutchinson's representatives have since maintained that they occurred: that this rajah's successors did, in 1800, come to a settlement of accounts with Mr. Parry, the gentleman appointed to act for Mr. Hutchinson's estate, by which he admitted a balance of 4,89,734 rupees to be due to that estate, and that up to 1803, payments amounting to 2,80,000 rupees were actually made by the rajah, which reduced the debt to 2,09,734 rupees. But in 1804 the existence of this claim was brought to the knowledge of the Bengal government by the British resident in Travancore, inquiries took place, and the rajah's dewan, who it would appear had been changed in the meantime, then declared that the "debt called Mr. Hutchinson's debt originated chiefly in fictitious transactions." Nothing specific, however, has been produced by the Travancore government to prove this assertion; but, at the same time, there is sufficient in the documents produced by Mr. Hutchinson's representatives to shew that that gentleman's transactions

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with the rajah were of the most objectionable kind, and that a large portion of the debt consisted of accumulated interest and fines for non-performance of certain agreements.

The account between the Travancore rajah and Mr. Hutchinson's estate, drawn up in 1800, gives the following results:—

Rajah of Travancore in account with the Estate of Mr. Hutchinson.

Dr.		Cr.	
	Rupees.		Rupees.
To amount admitted by the rajah as due in July, 1795 ...	4,39,383	By amount paid to Mr. Hutchinson in September, 1796	4,20,000
Sundry sums of money advanced to the rajah in 1795 and 1796	2,39,757	Balance due to Mr. Hutchinson's estate on the 13th March, 1800 ...	4,89,735
Amount of 64 candies of pepper sold to him in 1796 ...	10,560		
Forfeit for non-performance of a pepper contract for 1,154 candies ...	69,240		
Interest at 10, 12, and 18 per cent. on the sums of money advanced	1,50,795		
Rupees ...	9,09,735	Rupees ...	9,09,735

The transactions which led to the debt of 4,39,383 rupees, forming the first item in this account, cannot be fully ascertained.* It is clear that a large part of it

* The accounts remarked upon by the court (See No. I. of this list) were produced *after* this report was passed.

arose from actual loans of money to the rajah; but it is also certain, from the letter of the rajah's minister, dated 22nd October, 1795, that it included interest: and in a bond given by the dewan on 21st March, 1794, which acknowledged his having borrowed of Mr. Hutchinson coins of various denominations of the value altogether of about 1,35,000 rupees, the rajah is made to agree not only that the amount should bear interest at 12 per cent. per annum, but that, if the amount were not repaid at the end of seven months and ten days, the penal sum of 25,000 Bombay rupees should be paid in addition. Looking to this fact, and to the general character of the transactions between the Rajah of Travancore and Mr. Hutchinson, it is evident that a large portion of the old debt of rupees 4,39,383 consisted of interest and penalties; and it appears on the face of the account that 2,20,035 rupees of the new debt were of the same description. Although, therefore, there is no evidence to shew that the debt to Mr. Hutchinson originated for the most part in transactions positively "fictitious," there is sufficient, if we advert to the disadvantageous, not to say ruinous, conditions on which money was advanced to the rajah, and consider the influence which, in making those conditions, Mr. Hutchinson must have derived from his situation as the Company's resident, to place his claim in a doubtful light, the more especially, when it is remembered that Mr. Hutchinson's representatives have recovered more than the principal.

The next question is, whether, if the justice of their claim upon the Rajah of Travancore were even clear, the Company have become so implicated as to be at all responsible for the payment of it themselves, or bound to enforce such payment upon the government of Travancore.

It is asserted in the petition to the House of Com-

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mons, that the Company virtually adopted the debt to Mr. Hutchinson when they took possession of the territories and revenues of Travancore. The simple answer to this is, that the Company never have taken such possession, either wholly or in part. The hostile conduct of the rajah's dewan, joined to the accumulation of a large debt to the Company, on account of the annual subsidy payable to them by treaty, led, it is true, to the occupation of Travancore by their troops in 1809, and subsequently to the assumption by their resident of the office of dewan for a period of three or four years, at the expiration of which the administration was restored to the rajah; but, as sovereigns, the Company have never held any part of the country; while, so far from their proceedings towards the rajah having deprived him of the means of paying his private creditors, there is evidence to shew that, by the management of the resident as dewan under the orders of the Madras government, his finances were extricated from a state of complete embarrassment, and placed in a condition to meet any just demands that could be made upon his government.

The last question is, whether the Company can be legally implicated in this claim in consequence of their interference in 1808, when the court directed that their resident should be instructed to recommend the rajah to make no further payment in liquidation of the alleged debt to Mr. Hutchinson's estate, until the justice of it was established to the Madras government? It is asserted in the petition of Mr. Bury Hutchinson to the House of Commons, that the Company thereby prevented the payment of a debt at a time when the rajah was willing to make it. This, however, is so far from the case, that four or five years before that step was taken, the rajah's dewan had denounced the claim as one which had arisen from fictitious transactions, and during the

whole of the interval which ensued, the court of Travancore shewed no disposition to make any further payment to the estate of Mr. Hutchinson. The only effect of the court's proceeding, therefore, must have been to relieve the rajah from any fear which he may have entertained, lest the British government should be induced to become the advocates of a claim brought against him by one of their own servants.

The court, indeed, could not well have abstained from such a measure of recommendation as that which they directed in the despatch to Madras of the 7th September, 1808. The suspicious character of the transactions alleged to have taken place between Mr. Hutchinson and the rajah, the fact that at the period when they were represented as having occurred the most corrupt practices had existed among their servants on the coast of Malabar, and the position in which the British government stood, both with respect to the rajah and to Mr. Hutchinson, must all have combined, in the opinion of the court, to call for an interference, the only object of which was to discourage an act of injustice from being committed against the rajah's government.

Mr. Hutchinson, in his petition to the House of Commons, asserts that the claim was sanctioned by several governors-general, viz. the Marquis Wellesley, Sir George Barlow, and Lord Minto.

So far as respects the Marquis Wellesley, Mr. Hutchinson does not attempt to substantiate his statement; and your committee have caused the Company's records to be fully searched, and they have not been found to contain the slightest evidence of the least disposition on the part of his lordship or his government to favour or countenance the claim.

With regard to Sir George Barlow, Mr. Hutchinson, in the printed statement of his case, states as follows:—

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"But in the year 1806 the political resident again interfered, when Sir George Barlow caused a fresh inquiry to be made, and after investigation authorized Mr. Handley, the commercial resident, to proceed for the recovery of the balance due, and in his despatch is the following remark: that, 'in his excellency's opinion, Colonel Macaulay's letter to the commercial resident bears the appearance of unnecessary precipitation, in condemning the conduct of a public officer without inquiring into the real existence of the facts on which his judgment was formed.'"

After considerable research, your committee have traced the passage here quoted on the Bengal secret consultations of the 1st of July, 1806; and they have to state, that it occurs in a letter, not from Sir George Barlow, but from Mr. Edmonstone, as secretary to the Bengal government, and that the occasion which suggested it was a dispute between the political and the commercial residents respecting the presentation of some articles to the Princess of Travancore, and had no connection, directly or indirectly, with the case of Mr. Hutchinson, which is not hinted at in the remotest degree in the letter in question.

In support of his statement that Lord Minto sanctioned the payment of the claim, Mr. Hutchinson quotes the following passage, viz.—

"For the reason stated in the preceding part of this despatch, the governor in council trusts that the honourable the governor-general in council will deem it proper to issue immediate orders prohibiting the interference of the military authority in the commercial concerns of the factory at Anjengo, and will direct the establishment of the commercial resident in the privileges and functions of his office as they existed before the disturbance in Travancore."

Your committee have also succeeded in tracing the document from which the passage is quoted in the Madras political consultations of the 13th June, 1809, and they find that it has no relevance whatever to Mr. Hutchinson's claim, but refers entirely to a question affecting the relative position of the military and commercial authorities in Travancore.

It results, therefore, from what has now been stated, that Mr. Hutchinson's statement regarding the opinions of successive governors-general is totally without foundation.

It may be remarked, in conclusion, that the injury which the Company's interests sustained at the time Mr. Hutchinson was their commercial resident at Anjengo, from the frequent non-fulfilment by the rajah of his contracts to supply them with the products of Travancore, must have been at least considerably aggravated by the obstacles thrown in the way of their trade by the private dealings with the rajah in which Mr. Hutchinson was simultaneously engaged. This, and the fact before mentioned, that loans of money to native princes by Company's servants had been strictly forbidden by the court on pain of suspension from the service, will serve still further to shew that the representative of Mr. Hutchinson has no title to the countenance, either of the court or the legislature, in the claim which he persists in bringing forward.

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The case of Palmer and Co. has been referred to in the body of the work, and it is so complicated that any attempt to elucidate it must fail. That of the Lucknow bankers is ably argued in a letter addressed by the secretary to the Court of Directors to the secretary to the board, under date of the 1st of March, 1833. The letter is too long to be presented entire, but an extract from it may be sufficient to shew the nature and circumstances of the claim. The board had pressed the transmission of a despatch to the governor-general, calling upon him to urge the immediate settlement of the claims by the sovereign of Oude. In remonstrating against such a step, the court, after quoting numerous former decisions in favour of non-interference, proceed to discuss the grounds upon which they were required to adopt a different course; and the passage has an interest distinct from the particular occasion upon which it was written, inasmuch as it illustrates the operation of money-lending in the East. The curse of usury is one of the most fearful evils which afflict India. The following is the passage referred to :—

"After such a series of decisions in favour of a particular line of policy, it would require a strong conviction of its unsoundness and tendency to produce evil consequences, to justify the court, in their own opinion, in consenting to depart from it: but, on the contrary, when they entirely concur in the reasons which induced former courts and Boards of Commissioners to come to the decisions, so deliberately formed, and repeatedly announced, and regard them as establishing, not only on grounds of justice and policy, but also the faith of treaties, the practical

conclusions which were founded on them, they consider themselves as under a solemn obligation not to be the willing instruments of subverting a policy which they entirely approve, and in which they deem it of the highest importance that the British government in India should persevere.

"As the anxiety, however, of the court respecting the decision of the board on this subject, makes them fearful of omitting any thing which seems to them calculated to aid in removing the impression which they deprecate, and as the draft of the despatch prepared by the board contains a statement of reasons in justification of the measure which the board would prescribe, the court deem it incumbent upon them to make known to the board the reflections which that statement has suggested. They regret that, in presenting these conclusions, with the fulness which the occasion seems to require, so much is necessary to be written; but they trust the board will ascribe this effect to its true and only cause,—the importance which they attach to the question.

"In the draft, as prepared by the board, it is said, 'As a general principle, we have no hesitation in expressing it as our decided opinion, that the British government is not bound to interfere, and ought to be extremely cautious of interfering in the recovery of loans from native states, unless such loans were contracted with its previous knowledge, *and** unless the guarantee of the British resident was given in writing upon the face of the bond, *or*† signified by the resident in a despatch written at the time to his own government, and approved as well by

* Qy. *or?*

† Qy. *and?* otherwise the passage will import that the resident's guarantee, if appearing on the face of the bond, should be binding on the government, whether it had been made acquainted with and sanctioned it, or not.

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that government as by the native sovereign contracting the loan.'

"Though it is the decided opinion of the court that such guarantees as are above alluded to, of loans to native princes or other parties by any lenders whatsoever, should be altogether abstained from by the British government, and indeed interdicted, they nevertheless have great satisfaction in seeing the principle of non-interference so broadly and guardedly laid down as it is by the board in the above paragraph. But, in the same high degree in which they estimate the importance of such a rule, must they be solicitous that, along with the promulgation of the rule, a precedent should not immediately be set, by which, if acted upon, the rule would be utterly subverted, and the precedent become the rule in its stead; a rule directly opposite to the former, both in its purport and effects.

"The principle, as laid down by the board, recognizes two conditions: 1st, that the British government should have been a party, consenting at least to the original transaction; 2nd, that it should have given its guarantee for the payment: under which conditions alone, any interference should be attempted by the British government for the enforcement of claims of debt on native princes.

"Neither of these conditions applies to the case of the Lucknow bankers. This is not alleged; and it is so clear a point, that the court do not think it necessary to enforce it by argument.

"The subsequent paragraph of the board's draft, however, says: 'We state the principle thus broadly and decidedly, to the end that the orders we are about to transmit to you on the subject of the present claim may not be liable to misinterpretation in the important particular, that where money has been advanced to a native state

without a sanction of the nature above described' (original consent or express guarantee), 'we will in no case, except under very peculiar circumstances, interfere in view to its recovery.'

"It is obvious, therefore, that the justification of the interference now proposed is, and indeed must be, placed on the plea of 'very peculiar circumstances.' With respect to this plea, the court do not deny that very peculiar circumstances may create a case of exception to the most important rules; but, in proportion to the importance of the rule, it is incumbent on those who would make the exception rigidly to investigate the circumstances which are said to be peculiar, and not only to prove that they are peculiar, but that the peculiarity constitutes a case of sufficient importance to demand a departure from an established and important line of action.

"With this view, the court have carefully considered the circumstances which are adduced by the board as forming a peculiarity of that cogent nature in the present case; and, as they have been conscientiously led to a conclusion directly the reverse of that of the board, it is their wish, as it is their duty, to point out the grounds of their conviction as fully as the nature of the case appears to require.

"In the board's enumeration of circumstances, the first which appears is this: 'That both Lord Cornwallis and his successor, the present Lord Teignmouth, had repeatedly urged the late Vizier, Asoph-ood-Dowlah, to put in a train of liquidation the large debt which he had contracted.' The 'large debt' here means *all* the debts of the Vizier. This implies, therefore, the reverse of any thing peculiar as to the debt of the present claimants. All the other debts of the Nabob were equally included; and what was done, instead of being peculiar to any, was common to all.

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"It is next said, 'That, at his excellency's particular desire, the governor-general in council authorized Mr. Cherry, then the resident at Lucknow, to assist him in ascertaining his true and just debts, with a view to their being put into a train of payment. Mr. Cherry accordingly entered into a laborious investigation of the debts of that prince, and in a letter dated the 14th April, 1796, transmitted to the governor-general a list of such of them as he considered to be just. In that list are to be found the names of the Calcutta bankers.' Here, in like manner, there is not only not any thing peculiar, but there is a direct statement to the contrary. This circumstance, therefore, is altogether unavailing to the object of the board, that of making out a case of peculiarity for the interference of the British government.

"There are, however, in this statement, some things which deserve observation. The Vizier expressed a particular desire that the aid of the British resident might be lent to him, in order to make a discrimination between claims which might be, and those which could not be true. This was, therefore, no interference of the British government; it was substantially the act of the Vizier himself.

"It is also stated, that Mr. Cherry, after a laborious investigation, presented a list of such debts as he considered to be just. It is necessary here to consider the state of the facts. It could not be, that Mr. Cherry had made an investigation of the particulars of each claim, such as is made in a court of justice, and such as is indispensably necessary to enable a judge to determine with accuracy, not merely that something is due, but how much is due. The time Mr. Cherry employed in the investigation was altogether disproportionate to such a performance. We know well, by the experience of the Carnatic and Tanjore commissioners in India, how much time is required

to go into the detail of such debts, and to ascertain how much ought in justice to be paid, and how much not. All that it was possible for him to do, obviously, was, to separate the class of claims which appeared to be altogether groundless and fictitious from those which had more or less in them of what was real. If, upon this ground, any such inference is raised, as that all the claims included in Mr. Cherry's list* ought to be paid in full, we know well, from the experience of the same commissions, how erroneous such an inference would be, and what injustice would have been imposed on the Vizier, if any coercion had been applied to him on that principle. Of claims of precisely the same description upon the Nabob of the Carnatic, not more than nine per cent. has been found justly entitled to payment.

"If any stress is laid upon the circumstance, that the claims of the Dosses rest on the evidence of bonds, it is only necessary to remember, in order to shew the futility of that circumstance, how many of the claims on the two Carnatic princes rested on the same foundation, but have not been, on that account, spared either from scrutiny or retrenchment; and whoever is acquainted with the mode in which bonds are habitually manufactured in India, that for a small sum received the needy prince grants a bond for a large one, and that at the end of every six

* Mr. Cherry, in reality, never made a list. He transmitted to the governor-general the list given to him by Rajah Tickait Roy of the debts standing in the Oude government accounts, and afterwards a list of the debts as claimed by the creditors. The following instance of the difference between the two statements sufficiently shews the necessity of investigation previous to payment:—

Debt of Doorka Doss.

	Rupees.		Rupees.
According to the accounts of government	2,23,128	According to his own accounts... ...	9,25,056

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"The next circumstance adduced in the draft of the board is the arrangement which was made with the two classes of creditors, the European and native, immediately after the proceeding of Mr. Cherry. The draft says, 'that owing probably to the removal of Mr. Cherry, no arrangement was made for paying off the debts included in his list.' But why should not that arrangement, which was completed in five months after the date of Mr. Cherry's list, be considered the very arrangement to which the proceeding of Mr. Cherry was intended to lead? By that arrangement, a composition was accepted, instead of payment in full, by both classes of creditors, with a single exception in each class, the Dosses being the exception in the native class. The terms of the composition were more favourable to the European than to the native creditors, and this was the ground of the exception of the Dosses. They were willing to accept a composition, but not a less favourable one than was offered to the European creditors. This practice of compounding with their creditors, common with the native princes in India, deserves some reflection. On the supposition that a great part of the claims against them are

* That these were renewed bonds is proved by their dates in 1794, 1795, and 1796; for the debts were incurred before Lord Cornwallis left India. At how much earlier a date, with how many previous renewals, or at what interest, there is nothing to shew.

artificial, and do not represent correctly the value they received, with a reasonable interest, this is only a rude and summary mode, congenial with the mental habits of the people, of sweeping off the undue and extortionate part of the several claims: and the acceptance by so many of the creditors of the composition offered them may be, without any straining, regarded as presumptive evidence that, upon the whole, substantial justice was done to them. Upon the contrary supposition, that all the creditors who accepted the composition were defrauded, every one of those creditors deserved as much the interference of the British government as the Dosses. If it be said that they received something, the Dosses nothing, it is to be asked, how that affects the principle? Justice or injustice is not measured by the sum. Besides, the act was that of the Dosses themselves, and surely constituted no case of peculiarity requiring the interference of the British government. There was one part of their demand which the body of creditors did not receive: the Dosses, as to that part, stood in the same predicament. Another part the body of creditors did receive, the Dosses not, only because they refused to receive it. Whatever loss they sustained by this refusal is chargeable only on themselves. But men must be left to bear the consequences of their own acts. It would be a monstrous rule, that government should employ extraordinary and dangerous expedients for repairing those consequences.

"Among the other things which the court conceive themselves bound to notice in the draft of the board is, the statement that, in the early stage of the negotiation with the European creditors for the composition which they accepted, Mr. Lumsden (the resident) took 'a part.' The court are altogether at a loss to understand the object of this statement. It cannot be for establishing

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(what alone it would be for the purpose of the board to establish) that the case of the Dosses is a peculiar case; for nothing of what was done by Mr. Lumsden related to it. As little does it prove any thing as to the justice of their claim. If it be intended to suggest the idea, that the British resident, in this case, had violated the order under which he acted, of non-interference, the court are happy, on looking into the circumstances, to find that he was guilty of no such dereliction of his duty. In the very letter of the resident, quoted for the fact in the draft of the board, the words are these:—'His excellency, in the first instance, sent for General Martin and Mr. Johnstone, two of the principal creditors, who attended his summons; but as they did not come into the terms which were offered them, he afterwards made a proposition in writing, through me, to all the European creditors.'* And this was the whole of 'the part' taken by Mr. Lumsden in the negotiation: he was the channel of communication on the part of the Vizier, and at his desire, of a proposition in writing to the European creditors; an act to which it is surely needless to say the term interference can by no means be applied. He was once more the channel of communicating, in the same way, a modification of that proposition: and with this his intervention terminated: for the resident goes on to say, 'It happened that all the creditors were at Lucknow, either in person or by their representatives, and after the discussion of the first and second days, they negotiated the business directly with the Vizier's servants, without any intervention on my part.'†

"It is stated in the board's draft, and seems to be considered a matter of importance, that 'both Mr. Lumsden and Sir John Shore expressed regret at the unequitable distinction which Asoph-ud-Dowlah had made between

* 28th September, 1796, 11-213. † Ibid.

his European and native creditors.' The value of this expression of regret, as evidence in the case, deserves to be carefully weighed, and should be looked at in its true light.

"They could use it only in consequence of their supposing that the European creditors did not receive more than their due, and that the claims of the native creditors rested on the same grounds with those of the Europeans.

"If the European creditors had received more than they ought to have received, there was no room for just regret that the native creditors received less; there was rather cause for satisfaction, that a second act of extortion on the Vizier had not been perpetrated.

"Also, if the claims of the native creditors rested on a foundation in any respect different from that of the European creditors, there was no room for drawing a parallel between them; and the native creditors, though they got less than the European, in proportion to their demands, might have got as much, or more, in proportion to their due.

"Now, it is a question which not only may fairly be asked, but which it is indispensable to ask, how the resident and governor-general could have knowledge of either of these facts; either that the Europeans had not received a payment far beyond an equivalent for the loans they had made to the Vizier, or that the demands of the native creditors did not bear a still more extravagant disproportion to the sums they had advanced? They had performed no investigation into the claims; they had not entertained a thought of tracing them to their source, and ascertaining with accuracy the circumstances in which they had originated, though they were not ignorant of the rapid process by which they had been swelled.

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"It is very clear that, in these circumstances, a casual expression, either of the resident or governor-general, indicating an opinion upon a subject with which they were unacquainted, cannot be rested upon as evidence of any value at all.

"It is to be observed, and, for the elucidation of this point, is an observation of great importance, that such pecuniary transactions with native princes were not then so well understood, nor regarded with the same suspicion and disapprobation, as they are now. Mr. Johnstone, who was one of the Vizier's principal European creditors, and whose debt amounted to upwards of seven lacs of rupees, was first assistant of the resident, and still allowed to retain his situation. The scrutiny of the commissioners into the debts of the Carnatic princes had not yet let in the light which we have now the benefit of, on the mode in which the debts of the native princes originated, and how small the proportion which the sums they actually receive bears to the sums demanded of them. It is not unlikely that the governor-general and resident, on this occasion, did really believe that no part of the debts was nominal, that the claims were all honestly made up of the principal actually lent and the stipulated interest, though it is now well known that, without inquiry and proof, such a belief was dangerous and unwarranted.

"They were acquainted, however, with the exorbitant rate of interest by which the claims had been swelled, and the reckless manner in which the incumbrances had been incurred. The letter of the resident to the governor-general, dated 1st September, 1795,* had stated as follows:—'The ruinous system of borrowing appears more and more daily to have been the cause of the general decline of this government. The debt has increased an-

* 11-85.

nually, by uniting principal and interest at thirty-six per cent. into new bonds, to which have been added new loans at twelve months, and some at shorter periods, bills bearing discount tendered in place of ready money for *tuncahs* on the Aumils, who again charge interest on the state for anticipation on their kists, while the actual appropriation of the revenues has been involved in the mysterious intricacies of false intercourse with the Aumil's tuncahs, debts, and separate allowances, for purposes as confused as the general system of government has been.'

"In taking account of claims originating in such extraordinary circumstances, with a view to their liquidation, how would rational men proceed? They would take the course which has been prescribed to the commissioners on the affairs of the Carnatic princes; they would subject each claim individually to a rigid scrutiny; they would ascertain the amount of the principal actually lent; they would add to that a reasonable interest; and of so much, and no more, would they award the liquidation.

"This scrutiny did not suit the temper nor capacity of the Vizier: he took the easier method of telling his creditors that he would give them so much in satisfaction of their claims, and that with this they ought to be contented.

"It is necessary now to see what he did pay, and to go as far as we can in determining how near it approached to a reasonable payment.

"The proposition which was first made to the European creditors, and transmitted through the hands of the resident, was very nearly the same with that which had been already offered to the native creditors and accepted. It was, that instead of thirty-six per cent. per annum compound interest, they should only be paid at half that rate of interest, or eighteen per cent. per annum com-

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pound interest, and that the difference should be struck off the bonds.*

"Nobody will deny that this was still very high interest; and this it had been settled should be paid to the native creditors.

"There was another condition, however, which lessened the benefit. The native creditors were to be paid by instalments in six years, the European in five; and in the meantime no interest was to run in favour of either class.

"These terms the native creditors, with the exception of the Dosses, had previously accepted. They were, however, rejected by the European class; and after negotiation, the Europeans succeeded in obtaining payment in full at the rate of thirty-six per cent. per annum compound interest, and that immediate, they foregoing only the interest due since the last date of the bonds. And this extortion is what the governor-general and the resident express their regret, that the native creditors also were not enabled to force upon the Vizier.

"It thus appears, that the payment which the native creditors were to receive, and which was rejected by the Dosses, was payment at the rate of eighteen per cent. per annum compound interest, subject to the condition of receiving this payment by one-sixth every year, without any accruing interest upon the sums deferred. Now, when two things are considered—first, the comparative smallness of the advance, in which it is most probable that each of the demands originated; and, secondly, that engagements with the native princes at such rates of interest are never *bonâ fide*, nor is the exact fulfilment of them, except by accident, contemplated by either party—

* Letter of the Resident to the Governor-general, 28th September, 1796.

it cannot be pretended, that this rate of payment to the native creditors was an arrangement to which the name of injustice can with any semblance of reason be attached: and the court have no doubt, if the question were put to the board, they would immediately answer, that they would think it unjust to interpose the authority of the British government for extorting from the King of Oude more favourable terms of payment in behalf of any creditors.

"Another consideration here occurs, which, in the practical view of the question, is of very great importance. Asoph-ud-Dowlah died within a few months after this agreement with his native creditors, and there is nothing to shew that, in consequence of it, any thing was ever paid to them. At all events, if one of the six instalments was paid, there was nothing more. The short and uncertain possession of power by the spurious Vizier Ali did not afford him the means; and Saadut Ali refused to be responsible for his predecessor's debts. It thus appears, that the Dosses actually are in a condition little worse, if at all, than the rest of the native creditors, who, if they have received any thing, have received no more than a sixth of their reduced demand; and it follows clearly and indubitably that, if the Dosses have any ground to claim the interference of the British government, every one of the native creditors included in that arrangement has equal ground; nor can the British government, without the most glaring inconsistency and partiality, grant its interference in behalf of one, and refuse it to any other.

"The next circumstance which is adduced in the draft of the board is, the insertion in the preliminary treaty with Saadut Ali of an article relative to the payment of the 'just debts of his late brother,' and the omission of any such stipulation in the definitive treaty.

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"The debts to which the article in question referred were, no doubt, the debts of the native class of creditors with whom the arrangement above described had been entered into by Asoph-ud-Dowlah, but upon which arrangement nothing, or, at any rate, a fraction only of the debt, had been paid.

"This circumstance, however, whatever be its import, has no exclusive bearing upon the claim of the Dosses, and does not in the least degree aid the board in making out that case of peculiarity, which, by their own doctrine, it is incumbent upon them to establish, in order to lay a ground for enforcing payment of their claim, after a lapse of more than thirty years, from the King of Oude, by the authoritative interference of the British government.

"Between the conclusion of the preliminary treaty, however, and the arrangement of the definitive treaty, new considerations had suggested themselves to the British government; and they saw adequate reasons, as it appeared to them, for withholding any such article. 'The stipulation,' they say, 'would involve us in the necessity of inquiring into the justice of all claims, and constitute the Company, in some measure, a guarantee for procuring the liquidation of them, which would be attended with very serious embarrassment.

"The language here employed, as to 'the necessity of inquiring into the justice of all claims,' is indicative of a juster sense of what is essential to the equitable adjustment of debts, namely, a rigid scrutiny into the circumstances, than the language of the governor-general, and the resident, manifested before, when they appeared to be contented with a very summary cognizance of demands.

"It would have been necessary for the British government, in consequence of such a stipulation, to have con-

stituted itself a tribunal of justice between the sovereign of Oude and his creditors. It would have been equally necessary for it to take the execution of its judgments into its own hands, otherwise it must have submitted to the degradation of permitting articles, in its own treaty, inserted by its authority, to remain unexecuted.

" The court are of opinion, that these were reasons far more than sufficient to determine the government to the course which it adopted; and to obtain for its determination the sanction and approbation of its superiors in England, including authorities of all descriptions, from that to the present time.

" The board's draft, however, would now make the court say: ' We cannot admit the validity of this reasoning, which, if valid, ought most assuredly to have deterred the governor-general from agitating the subject at all. In the particular case so many steps had already been taken, as to make it very questionable whether it was still open to the British government to recede, on the ground of the general obligations which Sir John Shore urges.'

" What ' this reasoning' should have deterred the governor-general from is sufficiently obvious. It should have deterred him from proposing such an article in the preliminary treaty: but it had no tendency to deter him from doing what so many of his predecessors had done (if that also is meant to be included in the phrase ' agitating the subject at all'), namely, giving his advice to the Vizier, in strong and urgent terms, upon all the faults of his administration, his mode of contracting debts, and deferring the payment of them, as well as the rest; or from allowing the resident, at the Vizier's request, to aid him in looking into his incumbrances, and to be the channel, as in the case of Mr. Lumsden, of a communication to one class of his creditors; and still less could

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there be any reason why, if the governor-general had taken a wrong step in one stage of an important transaction, he should not retract it in another. The contrary would surely be a most monstrous doctrine.

"The latter sentence in the board's paragraph requires special remark: 'In the particular case so many steps had been taken.' Particular case, here, must mean the case of all the creditors; for nothing had been done as to the Dosses but in common with the rest. The reasoning of the board, therefore, goes to shew, that the British government is bound to procure payment for every one of the creditors. Are they prepared to act upon that doctrine? If not, they recede from and abandon their own ground.

"'So many steps had been taken.' These steps, as enumerated by the board, are, 1st. The insertion of the article in the preliminary treaty; 2nd. The list of debts transmitted by Mr. Cherry; and these two acts are set down by the board as laying upon the British government the obligation of seeing that the debts of the sovereign of Oude should all be justly discharged.

"To the court it does not appear that they constitute any obligation. The article in the preliminary treaty was indicative of a desire, on the part of the British government, that justice should be done to the Oude creditors; and nothing more. But a wish that justice should be done to any man, or class of men, gives no right to any one to demand a particular exertion for that effect.

"The act of Mr. Cherry was not indicative even of so much. Being performed expressly in compliance with the desire of the Vizier, it was essentially indicative of nothing but a willingness to oblige the Vizier.

"It was, indeed, well known, that the British rulers had tendered their advice, and been urgent in their entreaties to the ruler of Oude, to arrange honourably with

his creditors. But in all their expostulations, the ground which they took was that of that concern, not for the interest of the creditors, but of the Vizier himself. It was not because it would be good for the creditors to receive their money that they urged payment of them upon the Vizier, but that it was of the highest importance for the Vizier to free himself and his administration from the embarrassments and disorders which his pecuniary difficulties created.

"The draft of the board endeavours to connect the two facts, the article in the preliminary treaty and the list of Mr. Cherry, with the obligation they would thence lay upon the British government, by saying that they must have created expectations in the creditors that the British government would force the sovereign of Oude to pay them.

"In the first place, the court not only doubt, but are very much disposed to disbelieve, that any such expectations ever existed. But another thing they are perfectly sure of, that if they did exist, they were utterly groundless; and though the court consider expectations legitimately raised as matters of importance, no man in the world conceives that unreasonable expectations deserve any regard.

"The creditors, if they knew what had passed between the British and the Oude governments on the subject of the debts of the latter, knew two things: first, that the reason of the British government's concerning itself in the matter was declared to be its desire to improve the administration of Oude, in which the relations of the two states gave the British government a deep interest; secondly, the constant and strong declaration of the British government, that it had no right to urge the claims of any creditor upon the sovereign of Oude, and its firm determination to abstain from doing so.

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"If, in these circumstances, the creditors, because the British government had once had a thought, but afterwards abandoned the thought, of getting the sovereign of Oude to undertake in a treaty to pay the debts of his predecessor (which, however, implies that independently of the treaty the British government had no right to interfere), and because Mr. Cherry, at the request of the Vizier, aided him in making out a list of the demands upon him, fostered in themselves expectations that the British government would do what it had no right to do, and what it was contrary to its policy to do, such expectations were only delusions.

"In the board's draft a passage is inserted from the letter of Colonel Scott, the resident in 1801 (the letter in which he states the declaration of Saadut Ali, that the adjustment of the debts of the state of Oude was the affair of that state, and ought to be exempt from the intermeddling of the British government), in the following words: 'Your lordship's sense of the obligation which his excellency (the Vizier) owes to justice and common honesty, to make some arrangement for the liquidation of these debts, is so strongly manifested by the proposition, under certain conditions (the entire transfer of the Vizier's territories to the British government), of taking the burthen upon the Company, that his excellency looks with certainty to the demand being at a future period pressed upon him by the influence and authority of the British government.'

"This passage is somewhat obscurely worded. The contingency, however, which is referred to, is that surrender, which had been under negotiation, of the entire sovereignty of Oude to the British government. Of course, in the event of such a surrender, the British government would have succeeded to all the legitimate obligations, without exception, of the Oude state, and

would have paid such of its debts as came under that description: not, however, without such a scrutiny, and such retrenchments, as have taken place in the case of the debts of the Carnatic and Tanjore states, when it succeeded to all their obligations in consequence of the surrender of all their territory. But what connection there is between such a responsibility, in such a case and any responsibility, in another case, which is not only not the same, but in every essential circumstance directly the reverse, the board have given no explanation to enable the court to discern. And equally unable are they to trace even the smallest connection between the premises and the inference of Colonel Scott, that because the governor-general had a sense of the Vizier's being under obligation to justice and honesty, and because there would have been an obligation on the British government to discharge the debts of the Oude state if the government of that state had been transferred to it, therefore the Vizier looked with certainty to his being compelled by the British government to pay them, though the most explicit declarations had been made and repeated by the British government, that it never would be the instrument of such an interference.

"It is stated in the draft of the board, that the Marquis Wellesley refused to affix his seal and signature to certain articles transmitted by the Vizier, during the discussion of the treaty under negotiation in 1801, of some of which articles the object appeared to him to be, 'under the shelter of the British name, to cancel all the public debts of the state of Oude.' This refusal was highly proper in his lordship, and his obvious and indispensable duty. But the court expressly deny, that there is any connection between that act and an obligation on the British government to use its irresistible means to make the government of Oude pay those debts, and still

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less one single debt, extracted by particular favour, out of the entire number.

"The next circumstance adduced in the draft of the board is a 'trust,' expressed by the secret committee in their despatch dated 19th November, 1803, that the revenue belonging to the Vizier 'would enable him to put his just debts in a course of progressive liquidation.' After what has already been said, to shew the real nature of the anxiety so often expressed by the British authorities on the matter of the Oude debts, it would be unnecessary to add any thing here, if the court were not anxious to leave nothing unnoticed on which the board have rested their case, though, as appears to the court, it has no power or tendency to support it. The court did wish, and the supreme government wished, that the sovereign of Oude would free himself on honourable terms from the embarrassment of his debts, and they have often told him how much it concerned his interest. But this is so far from implying a right, or intention, to interfere by coercive means in any individual case, or in all the cases, that it implies the very reverse. They would not have been contented with merely *advising*, if they had thought it their right, as well as their policy, to *order* payment."

The enormity of the claim is pointedly, though very briefly, exhibited in the following further extract:—

"The draft thus concludes: 'We feel that it is incumbent on us to use our utmost efforts to retrieve the present claimants from the unfortunate situation in which they are placed. Under a strong conviction that this is a valid claim against the King of Oude, we are of opinion that the settlement of it should no longer be delayed. We are of opinion that the present claimants are entitled to the same terms as those which were accorded by Asoph-ud-Dowlah to the European creditors in 1796.'

"'The utmost efforts' of the British government mean compulsion, either by intimidation or force.

"'The present claimants:' the Dosses. Why them alone?

"'Unfortunate situation,' of a party who would accept payment on no other terms than thirty-six or twenty-four per cent. per annum compound interest.

"Why should the situation of the Dosses be more unfortunate than that of the other creditors, who were willing to accept payment on moderate terms, but never received it?

"'A strong conviction that this is a valid claim.' A claim to thirty-six, or say twenty-four, per cent. per annum, compound interest, which the 'utmost efforts' of the British government ought to be employed to enforce. As to this strong conviction of the validity of the claim, the court cannot forbear asking, upon what does it rest? Of the origin of the debt the board can know no more than the court, which is nothing. The mere existence of the bonds, unexamined and unauthenticated, as they are, is no ground for a strong conviction, nor any conviction at all, upon the subject.

"The Dosses 'entitled to the same terms as those which were accorded to the European creditors:' in other words, thirty-six per cent. per annum, compound interest. In the opinion of the court, neither the European nor any other creditors should have been paid at that rate, much less have had the 'utmost efforts' of the British government employed to compel such payment."

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At page 331 reference is made to various documents illustrating the respective opinions of the Court of Directors and the Board of Commissioners, on the subject of retaining councils at the subordinate presidencies. A few extracts from these papers may be acceptable. In a summary of the proposed bill, framed under the orders of the board, the following passage occurs:—

"The governors of the separate presidencies not to have a council. A council will be less necessary in these governments, as the supreme government will be strengthened."

Writing to the chairman and deputy chairman of the East-India Company on the 27th June, 1833, Mr. Grant, the president of the board, says—

"To me it appears absolutely necessary that the supreme government shall legislate for the whole Indian empire. When the arrangement for that purpose shall have been carried into effect, the functions of the subordinate governments will be only executive, and may be performed, I think, not less satisfactorily,—I am sure more economically,—by a governor acting singly, than by a governor in council. I will, however, so far yield to what I understand to be the wishes of the court, as to consent that the question, whether the subordinate governments shall or shall not have councils, shall by the bill be reserved for the future and deliberate decision of the court and the board. Into a full discussion of that question I shall be prepared to enter so soon as the new system shall be complete and in action."

In answer to the above-mentioned letter, 2nd July, 1833, the court observed—

"The proposal to take away the council from the governors of Madras and Bombay appears to the court

to be very objectionable; and their objections are not removed by the modification suggested in your letter, dated the 27th ultimo, since to reserve to the board and the court the power of maintaining or reducing the councillors at Madras and Bombay (unless, indeed, the concurrence of both authorities were required), would be tantamount to an adoption of the proposal, your opinion expressed in the summary, and reiterated in your letter, being fixed in favour of this reduction; and we would further observe, that it is not apparent how the expense of the additional councillors in Bengal is to be provided for consistently with the retention of the council at the subordinate presidency.

"However subject to the control of the supreme government, much power must inevitably rest in the local authority; and that power will be liable to abuse, unless checked by the association with the governors of persons of character and eminence in the service. The court fully admit that it is desirable that the restraints upon the governor should be such as not to cripple the energy and vigour which are essential to the due discharge of his important duties; and they think that this principle is entirely preserved in the present constitution of the Indian governments. The governor acts ordinarily with his council; but he has the power to act independently of them, knowing that he thereby incurs a peculiarly heavy responsibility, and that all the circumstances necessary to enable the authorities in England to exercise their judgment upon his conduct will be brought to light by the recorded Minutes of his constitutional associates.

"We presume that it is intended that the governors of the subordinates shall continue to be appointed from home, and that generally they will be strangers to India. If there were no councillors, a governor must, upon his arrival, seek advice and information from secretaries, whose responsibility as advisers of the government is, to

APPENDIX. say the least, very indefinite, and who cannot be so fit to give advice as councillors, who are, or ought to be, conversant with the internal working of the government."

In a petition to the House of Commons, the court make the following representation:—

"The proposal to vest the executive governments of Madras and Bombay in governors without councils, appears to your petitioners to be liable to very serious objections, which are not removed by that clause in the bill which allows the Court of Directors, with the approbation of the said board, to appoint a council in any presidency, because, as there are councils at present, the effect of the bill, if passed into a law, will be to declare the opinion of the legislature against councils, and to place the Court of Directors and the Board in the position, should they think councils essential, of at once exercising their judgment in opposition to that opinion.

"If it be intended to continue the councils, but with a power to the court and the board to dispense with them, your petitioners humbly submit that that intention should be distinctly expressed in the said bill."

This is repeated with even greater strength in a petition to the Lords.

"That the proposal to vest the executive governments of Madras and Bombay in governors without councils, appears to your petitioners to be liable to very serious objections; if adopted, the local governor, frequently a stranger to India, will be deprived of the information and advice which he has hitherto obtained from his councillors, a salutary check upon the proceedings of the governor will be destroyed, the security that every act and the reasons for it shall be placed upon record will be lost, and the stimulus to exertion in the civil service, created by the hope of ultimately reaching a seat in

council, will be greatly impaired. These objections are not obviated by that clause in the bill which allows the Court of Directors of your petitioners, with the approbation of the said Board of Commissioners, to appoint a council in any presidency, because, as there are councils at present, the effect of the bill, if passed into a law, will be to declare the opinion of the legislature against councils, and to place the Court of Directors and the Board in the position, should they think councils essential, of at once exercising their judgment in opposition to that opinion. If it be intended to continue the councils, but with a power to the court and the board to dispense with them, your petitioners humbly submit that that intention should be distinctly expressed in the said bill."

The question is thus argued by Henry St. George Tucker, Esq., in a paper recorded by him on the 2nd July, 1833:—

"To the proposition of Mr. Grant for the formation of a fourth presidency, I have not the smallest objection: on the contrary, the Board of Commissioners, of which I was a member, in their report to the supreme government of the 13th April, 1808, were induced to recommend 'that a more efficient authority be established in the ceded and conquered provinces;' and the grounds for this recommendation, far from being weakened, have acquired force from the extension of our territory and connections, and from the unsettled state of our western provinces, and the adjoining country of Oude.

"I consider the imperial city of Agra to be particularly well adapted for the seat of the new government. Situated on the Jumna, it has, to some extent, the advantage of river navigation; it has a fortress for the protection of our treasure and archives; it is sufficiently near to Delhi, to Bhurtpore, Gwalior, Rajpootana, and other

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points which must always be observed with care and vigilance; and it is not only centrically placed with reference to the territory likely to be assigned to the new presidency, but it occupies an intermediate and convenient station between Calcutta and Bombay; it is also near the principal stations of the Bengal army, Muttra, Meerut, &c.

"But upon the constitution of this and other subordinate presidencies, I differ widely from the views entertained by the president of the board, whose proposition goes to degrade them into mere lieutenancies, stripped of a council and deprived of all independent authority, the supreme government being invested, to use the words of Mr. Grant, with '*a precedent* and *preventive*, in place of a *subsequent* and *corrective* control.' What functions of government are these lieutenants intended to exercise? We are told that they are to have a council of '*secretaries*,' but are these ministerial officers to deliberate and vote under a direct responsibility? And are they to be remunerated with salaries equal to those which have hitherto been received by the members of government? If so, there is only a change of *name*, and the executive duties of the secretary will soon, no doubt, be consigned to some inferior officer. If they are not to be deliberative and responsible functionaries, in what situation will not the government be placed? Some man of rank will be appointed governor or lieutenant-governor who has never seen any thing of India, who is unacquainted with the languages, manners, and feelings of the people, and who must depend upon the advice of an irresponsible secretary for conducting all the affairs of his government. The members of council are not only qualified in general by their knowledge and experience to give wholesome advice to the new governor, but they are a constant check upon him, and by recording their Minutes, when a difference

of opinion occurs, the home authorities are enabled to form a more correct judgment on the merits of every case which may be brought under their notice.

"I see no objection to the supreme government being invested with a general power of restraint on the public expenditure at the subordinate precidencies; and it may be useful that the Regulations framed at those presidencies should be submitted for sanction to the superior authority, in order that *uniformity in the general principles of legislation* may be preserved: but I am by no means of opinion that legislation should vest entirely and exclusively in the supreme government. It appears to me that laws should be adapted to the state of the particular society, and the local administration must certainly be best qualified to judge of the wants of the community over which it presides. Absolute uniformity in legislation is neither necessary nor desirable, nor perhaps practicable. Nothing can be more dissimilar than the character and habits of different classes of the population of India, and no assumption could be more fallacious, than that the same laws would answer equally well for them all. The natives of Bengal Proper bear no resemblance to the inhabitants of Upper Hindostan; and although I cannot speak from the same personal knowledge, I have reason to believe that the Mahrattas of the Deccan, and the Nairs, Mopilas, and other inhabitants of the Peninsula, are distinguished in a remarkable manner from both. Why is it that the Regulations of 1795 for Benares have been found more suitable and easy of execution than other parts of our code? Simply because the Benares Regulations were drafted on the spot, upon an accurate knowledge of the wants of the particular society. I contend, then, that the power of legislation should be continued in the subordinate governments, although I do not object to their being required to submit their

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Regulations for revision, and for the ultimate sanction of the supreme authority in India.

"I am of opinion that the seat of the supreme government should be fixed in Calcutta, and I could assign many reasons for this opinion, in opposition to that of Lord William Bentinck (who prefers "Allahabad"), if the question were still open for consideration. The provinces from Benares eastward, including Arracan and the settlements on the coast of Tenasserim, would constitute, I think, the proper limits of the superior presidency; and as these provinces have, with the exception of our late acquisitions from the Burmese, been long settled, the superintendence of their internal affairs would not impose upon the supreme government any very onerous duties, or interfere materially with the exercise of a general control over the other presidencies. The chief functions of the governor-general in council will, no doubt, be legislative and political, with a general superintendence; but it appears to me by no means advisable to divest the supreme government of the immediate management of a particular territory. This sort of abstraction would separate it too much from the people, and remove it too far from the sphere of their internal concerns. One great evil incidental to our rule is, that the governors of India can rarely become acquainted with the people over whom they are placed.

"The projected change in the construction of the supreme government appears to me to call for the most serious consideration.

"It is to be composed of *seven* members instead of *four*, the present number, and the councillors are to be appointed 'by the court, *with the approbation of the king*,' instead of being selected, as at present, by the court, without any interference on the part of his Majesty's ministers.

"For the proposed addition of three members, I can perceive no sufficient reason, even if no objection occurred on the ground of expense. With one hand we take away the councillors from the subordinate presidencies, and with the other add (unnecessarily, as I think) to the apparatus of the supreme government.

"If it be intended to take the three additional councillors from the service of the subordinate presidencies, we shall remove them from the spot where their knowledge and experience are likely to be most useful, and we shall bring them to a quarter where they will find a different state of things, and where even the languages which they have acquired will not enable them to communicate with the people.

"If it be proposed, by means of this extended apparatus, to carry on in Calcutta all the details of administration, from Cape Comorin to the Himalaya mountains, and from the borders of China to the Indus, then, I say, the project is visionary and impracticable. The machine will be overloaded and will not move, the responsibility will be divided between the supreme government and its lieutenants. The latter, divested of all independent authority, must dwindle into insignificance; or if, when differences occur, an appeal is to be made to the home authorities, the decision in the last resort must either weaken the influence of the controlling power, or become altogether nugatory. The plan, in truth, appears to me to place the supreme government in the position which the home authorities at present occupy; but as it is not intended, I presume, to withdraw their superintendence, an intermediate process of revision will have been superadded; and if it be required that the subordinate governments should send home their proceedings, and that the superior government should also transmit its correspond-

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ence, containing the revision of those proceedings, the public business will be increased in a degree likely to produce the greatest embarrassment.

"I am quite aware that much of the good which has been done in India has been effected by the local government, and much ought at all times to be left to its discussion; but I cannot think that the check of the home authorities is without its use, or that it can ever be safely dispensed with. I would strengthen the political power of the supreme government to the utmost; nor can it well be armed with an authority too absolute over Europeans resorting to India; but I cannot perceive any necessity for withdrawing from the subordinate presidencies the free and independent exercise of all the administrative functions of government, whether revenue, judicial, military, commercial, or even legislative.

"I apprehend, however, that in adding three members to the supreme council, it may be proposed to introduce some of the judges of the king's courts or political partisans from this country, or perhaps some eminent native of India. Such projects have been contemplated, and have been advocated by particular individuals; but I consider them to be open to the most formidable objections. As, however, they have not yet been put forth in any tangible shape, I shall reserve myself until they be officially announced in a manner which may enable me to deal with them.

"But I must observe upon the proposal to subject the appointment of 'councillors to the approbation of the king,' or, in other words, to transfer the patronage to his Majesty's ministers. The best security which we possess at present for good government in India, depends upon the judicious exercise of the power to select from the service at large the members of council at the differ-

ent presidencies. We do not exercise the same independent power in appointing the governors of India: his Majesty's ministers must, for obvious reasons, be parties to such appointments. These high functionaries have generally been political characters of distinction connected with the administration, and they must possess the confidence of the national government; but the Court of Directors are better acquainted with the merits and pretensions of their own servants, and it is of importance that the whole service should look up to them for protection and advancement. The high station of a member of council is looked to as the reward of distinguished service, and it operates as the great stimulus to exertion; but if his Majesty's ministers be allowed to appoint their own partisans, or individuals not connected with the service, this fair and legitimate object of ambition is at once removed, and those motives and feelings which have heretofore produced such devotion to the public service will necessarily be weakened if not extinguished."

In a paper recorded by Richard Jenkins, Esq., 5th July, 1833, the passages following occur:—

"The maintenance, especially, of the principle of having a high and generally independent authority in every great division of the country, I consider to be indispensable for the just protection of all classes of our subjects, as well as for the due preservation of the dignity and power of the nation in the remotest parts of the empire. It is not less essential for the respectability and due treatment of our civil and military services, the maintenance of their present distinctive characters, useful for keeping up a spirit of emulation, variety of talent and views, and I must add, as to the army, for ensuring a due attention to the national habits and usages of the troops, as well

as a separation of interests and feelings, sufficient to prevent excitement becoming general or dangerous.

"And here I cannot but refer to Mr. Elphinstone's opinion on the subject, in his letter to Mr. Hyde Villiers (given in the Political Appendix to the Report from the Select Committee of the House of Commons on East-India Affairs), as containing, in my judgment, *sound and practical views*, which, I am sorry, have not been allowed more weight in framing the bill than has apparently been granted to them.

"Again, the patronage of the chief appointments ought, I presume, to go with the responsibility which it is proposed to vest in the governor-general. This, besides being a dangerous addition to the power and influence of that functionary, would go so much farther to deprive the *local governors* of the consideration due to their station in the public esteem, as added to the proposed submission of the local armies to the authority of the commander-in-chief in India, himself only subject to the orders of the supreme government, would tend to make those situations no longer objects of ambition to men of high rank and character.

"Much, then, I must repeat, as I think it necessary to have a strong supreme government absolute, in times of danger, over every part of India, I yet cannot concur in giving powers for ordinary times, so great as it is proposed to give to any one individual or select body. These powers would be efficient, in my opinion, in so vast an empire, for nothing but evil, whether they created an absolute dictatorship in the governor-general, by placing him above all control from this country, or at any rate able to render it nugatory, from being himself the sole reporter of his acts; or whether his power should be found, on experience, to be merely nominal, whilst the local governments being relieved from home control

and that of local councils, were left virtually unchecked, though subject to all the degradation, in the eyes of the communities over which they preside, of being stripped of the high prerogatives which their predecessors had wielded.

"Whether, also, the governors were servile or contumacious, whether they were deprived of all public spirit and zeal by feeling their dependence on the good-will of their subordinate functionaries appointed by the governor-general, and on that of the persons named to the proposed supreme council, formed, as I presume it would be, of members from each presidency who would have the ear of their great chief; or whether, on the other hand, they courted their superior's favour, by lending themselves to *jobs* for the benefit of their mutual friends, and to other compliances for private instead of public ends, I can see nothing in the plan but public danger and discredit. Under such a concentration of power in the governor-general, we might expect to see the practice of the Moghul times again established, when the real governor remained at court to swell the pomp of the Emperor's train, at the expense of the subject provinces, at once a hostage for his own fidelity and the payment of his revenue, and for the fidelity and good conduct of his lieutenant, who carried on the government in his name.

"The picture I have above drawn may appear to be overcharged, and I may be accused of inconsistency, in speculating at one time on the great powers given to the governor-general, and on the consequent eclipse of the local governments, at another on the inefficiency of the former and the unchecked authority of the latter. My meaning is, that if the governor-general could efficiently exercise the powers intended to be vested in him, he

APPENDIX. would be above all control from this country; if he could not, India would be a prey to all the evils of misgovernment. The governor-general would have the responsibility without the power, and the local governors, vested with irresponsible power without credit for good measures, and able to shift the blame of their bad ones on the paramount authority, might be expected to run into all the vices incident to such a position; whilst the governor-general, sensible of the false position in which he would find himself placed, might be led into situations derogatory to his high station, in order to keep up the semblance of his power, or really yield to the temptations which would beset him, from the absence of those checks which have hitherto been deemed essential in the system of Indian administration.

"But it is further proposed to have no local councils, 'because the *supreme government will be strengthened.*' This may appear to leave the governors *locally* more respectable though *more* strongly checked, in *theory* at least, from a distance. I must, however, think that even the *form* of administration by a governor in council is not a matter of indifference to keep the government well with a European community, which will be likely to receive with jealousy and dislike the orders of a nominally powerless, but really absolute functionary. But more especially unless the plan contemplates appointing to the local governments none but men of local knowledge and experience, a council is, in my opinion, indispensable, as well for enlightening the governor as for arranging the public business for him; and to enable the governor-general to exercise his control usefully and efficiently, it must be desirable to have the aid of the *opinions* of independent members of the government, appointed from home, rather than the *voices* of secretaries, likely to be

biassed for or against the measures of the governor, as their appointments might depend upon him or their common superior."

The above remarks, it will be observed, refer to a prospective system, which in some points has been modified. The opinion of Mr. Elphinstone, above referred to, is contained in the following passage:—

"10. I think the present system of home government has on the whole been successful in attaining the objects for which it is designed.

"The quality in which it has been most deficient is promptitude, and perhaps also vigour in enforcing its orders; but I doubt if this deficiency could be removed without greater evils. With more activity there would be more interference, which, besides the danger of inapplicable orders, would impair the vigour and diminish the dignity of the local governments. The evils of interference would be increased if promptitude were attained by throwing the home government into fewer hands. In that case there would be less deliberation, and there would be more fluctuations from the greater effect that would be produced by the change of an individual.

"The improvements I would suggest in India are chiefly subordinate arrangements. A more extensive change has been contemplated, by abolishing the subordinate presidencies, and bringing all India under the immediate direction of the governor-general, who is to be exempted from all the minutiæ of provincial administration; but in this plan, though suggested by persons for whose opinion I have great deference, I cannot bring myself to concur.

"In war and politics there cannot be too much promptitude, nor can the powers of the governor-general be too unfettered in those departments; but in internal government there cannot be too much deliberation and caution,

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nor can too much care be taken to guard against sweeping changes and frequent variations of policy. I would therefore rather increase the obstructions to the governor-general's discretion, by depriving him of all interference in the internal affairs of the other presidencies, except a veto on general changes proposed by the subordinate governments.

"The facility of introducing uniformity, which is the principal argument for this change, seems to me a very strong objection to it. As India is as extensive and as various as all Europe, except Sweden and Russia, it is probable that uniformity will never be more attainable in the one region than in the other. At present, India is very imperfectly known or understood, and even if uniformity should ultimately be practicable, it should not be thought of now. Our government should still be considered as in a great measure experimental, and it is an advantage to have three experiments, and to compare them in their progress with each other. The practice of Bengal led to Cornwallis's system; an opposite course in Madras produced Sir T. Munro's; both of which will, I doubt not, be hereafter combined in such a manner as to form a better system than either separate. If the proposed plan had existed in 1792, the permanent zemindary settlement which is now so generally censured, would have been irrevocably established in all parts of India.

"There are other advantages in local governments: they have more local knowledge; the merits of local officers, civil and military, are better known to them than to a distant government, and they have means of employing and rewarding them which would not exist in the proposed system; they keep up the division of the army, which seems to me advantageous, and they improve the means of intercourse with the native chiefs.

"The governor-general is charged with too much detail

at present, and might easily be relieved of part of that of Bengal; but as far as I can judge, he ought on no account to be removed entirely from being engaged in details; I should view with much apprehension a governor-general who had no practical experience in administration, and whose only occupation was to frame systems which he might instantaneously extend to every part of India, without the obstruction now opposed by the subordinate governments. I should much fear the tendency of such an arrangement to produce hasty innovations and frequent changes of system, things hurtful in all countries, but nowhere so much so as in India." *

* The letter from which this extract is made will be found in the Political Appendix to the Report of the Select Committee of the House of Commons, 1832. The previous extracts are from the volume called the "Negotiation Papers," printed for the use of the proprietors of East-India Stock, 1833.

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GLOSSARY.

ADAWLUT—A court of justice.

AMEER—A title of sovereignty or nobility among the Mahometans.

AMIR, AMEEN, or AUMEEN—A judge or referee.

AYEEN—Laws, regulations, institutes; as Ayeen Akbery, the Institutes of Akbar.

BAHADUR—A designation of rank used in regard to sovereigns and princes; and in this relation towards the East-India Company.

BANG—An intoxicating spirit.

BANYAN—The general manager of a large establishment, whether mercantile or private; a financier.

BATTA—Field allowance to troops; discount or abatement on inferior coin or currency.

BAZAAR—A market.

BEGUM—A Princess; any lady of rank.

BETEL NUT—A hard nut, chewed by the natives of India of all classes and of both sexes, and presented on occasions of state or ceremony in token of respect.

BIRT—A charitable allowance.

BUCKSHEE—A paymaster.

CHOULTRY—A house for the accommodation of travellers.

CHOUT, or CHOUTH—Tribute.

CIRCAR, or SIRKAR—The head; the chief; government. Also a large division of a country.

DAROGAH—An officer of police; the chief of a tannah, or police station.

DERVISE—A Mahometan devotee.

DEWAN—The usual title of the officer who, under native governments, has charge of the revenue, and generally, of the civil administration of the state.

DEWANNY—The office of Dewan. This office, with respect to the provinces of Bengal, Behar, and Orissa, was conferred on the Company in 1765, by the Emperor of Dehli.

DHURNA—A form of extortion practised originally by Bra[illegible]e-quently by others; performed by taking post at the door of the party from whom any thing is sought, under a threat of self-destruction if molested, or should the party against whom the *dhurna* is directed quit his house, and thus remaining till the request be obtained. During the continuance of the ceremony neither party must eat.

DOAB, or DOOAB—Two waters. The country between the Ganges and Jumna is called the Doab, but the term is applicable to any country similarly situated.

DOOLY—A litter.

DURBAR—A native court.

DUSTUCK—A passport, permit, or order.

FAKEER—A devotee; a religious mendicant.

FIRMAN—A mandate; a royal or imperial order.

FOUJDAR, or FOOJEDAR—A native police or criminal judge.

FOUJDAREE—Any thing appertaining to the office of Foujdar; belonging to criminal jurisdiction.

FRAUSH—A native menial servant.

GHAUT—A landing-place on the bank of a river; or a pass through mountains.

GOMASTA, or GOMASHTA—A commissioner; factor; agent; also an assistant in official or commercial business.

GUICOWAR—The sovereign of Baroda, the chief of one of the states of the Mahratta confederacy.

HAREM—The female apartments in a Mahometan house.

HEFT HUZARU—The seven thousand.

HUK—Dues; claims; fees; perquisites.

HUZAR HUZAREO —A thousand. Pergunnahs or districts are often distinguished according to their revenues, as the Beest Huzaree 20,000, Baees Huzaree 22,000 division.

JAGEER, or JAGHIRE—A grant of land or revenue by the native governments, conferred generally for military service.

JAGHIREDAR—The holder of a jaghire.

JEMADAR—A native military officer of inferior rank. Also the head of a body of peons.

JUNGLE—Dense forest, the trees being interlaced with thick shrubs and underwood; woody thickets. The term is also applied to large fields of coarse grass.

KHAN—A title of honour amongst the Mahometans.

KHELAUT—An honorary dress, bestowed by a superior as a mark of favour or investiture with office.

KILLADAR—The commandant of a fort.

KILLAH, or KELLAH—A fort.

KORAN—The sacred book of the Mahometans, containing their religious and legal code.

LAC—One hundred thousand.

LASCARS—Camp followers, particularly those attached to artillery. The term is also applied to native sailors.

LOOTIES—Plunderers.

MALGOOZAR, or MALGUZAR—A payer of revenue.

MALIC—Master; lord; proprietor; owner of land.

MOCUDDUM, or MOKUDDUM—The chief cultivator of a village, or headman of a tribe.

MOFUSSIL—The country as opposed to the town; the outlying provinces as distinguished from the presidency; and generally, the subordinate divisions of a district, in contradistinction to the sudder, head or seat of government.

MOHUR—A seal; also a gold coin worth sixteen rupees.

MOONSIFF—A native civil judge of the lowest grade.

MOSQUE—A Mahometan place of worship.

MUSNUD—Throne.

NABOB, or NAWAUB—Properly a viceroy, or governor of a province as deputy to the emperor; but during the decline of the empire, a title assumed by, and conceded to, almost every person of rank or influence.

NAIB—A deputy; one who manages the affairs of a superior.

NAZIM—See NIZAM.

NIZAM—An arranger; composer; adjuster; regulator; administrator; the chief magistrate, exercising all the functions of the government not intrusted to the Dewan.

NIZAM-OOL-MOOLK—Regulator of the state.

NIZAMUT—The office, duties, or department of the Nizam; the administration of criminal justice.

NUZZUR—A gift or present at a visit of ceremony.

OMRAH—A Mahometan title of nobility.

PAGODA—A gold coin of the Madras presidency. A "Star" pagoda is equivalent to about eight shillings English. The word is also applied by Europeans to the temples of the Hindoos.

PALANQUIN—A vehicle for travelling, borne on men's shoulders.

PATAN—An Affghan.

PEONS—Messengers; inferior officers of police.

PERGUNNAH, or PURGUNNAH—A small district or subdivision of a country.

PERWANAH, or PURWANAH—A license, order, written permission.

PESHCUSH, or PEISHCUSH—Tribute.

PETTAH—The suburbs of a fortified town; that part of a fortified place lying beyond, below, or around the fortress or citadel.

PHOUSDAR—See FOUJDAR.

POLIGAR, or POLYGAR—Head of a district; a military chieftain.

POONAH, or POONNYA.—The ceremony with which the Zemeendary accounts for the year are opened.

POTTAH—A lease.

PUNDIT—A learned Brahmin or expounder of the Shasters; a Hindoo teacher of languages.

RAJ—A principality, or large landed estate.

RAJAH—A title of sovereignty or of dignity.

RANA—The title of the ruler of several petty native states.

RANEE—The feminine of the foregoing, but the term is applied to the wives of Rajahs and of chieftains who bear other designations.

RUPEE—A coin in use throughout India. The value of the sicca rupee formerly circulating in Bengal, considerably exceeded that of other descriptions of this coin, among which there is for the most part little difference. The Company's rupee, now forming the usual currency and the standard of account, is worth about two shillings.

RYOT—A cultivator.

RYOTWAR, or RYOTWARY—Relating to ryots. A ryotwar settlement is one between the cultivators and the government, without the intervention of any middle party.

SAIB, or SAHIB—Sir; master; a title of respect.

SALIS.—An arbitrator or umpire.

SAMIRI—See ZAMORIN.

SEPOY—A native soldier.

SHASTER—The sacred books of the Hindoos.

SHASTRY—An expounder of the Shasters; a learned Hindoo.

SHAZADA—The son of a King or Shah; the eldest son of the Emperor of Delhi.

SIRDAR—The head or chief.

SOOBAH—A large division of territory ruled by a soobahdar.

SOOBAHDAR—An officer in charge of a soobah, or large division of a country, over which he exercised sovereign authority, subject to the emperor; also a native officer of the Company's troops superior to a jemadar.

SUDDER—Chief; head; principal.

SUDDER DEWANNY ADAWLUT—The Company's chief court of civil jurisdiction.

SUDDER NIZAMUT ADAWLUT—The Company's chief court of criminal jurisdiction.

SULTAN—A title of sovereignty.

SUNNUD—A royal or imperial mandate.

SUTTEE—The act of a Hindoo widow devoting herself to death on the funeral pile of her deceased husband.

TAHSILDAR—A native collector of revenue.

TALOOKDAR—An inferior zemindar. See ZEMINDAR.

TANK—A reservoir for water.

TOPASSES—Literally, wearers of hats; applied to the descendants of the Portuguese in India.

TUNCAW—An assignment on the revenue.

VAKEEL—An agent, envoy, minister, or ambassador. In courts of justice, an attorney, pleader, or advocate.

VIZIER—Prime minister. The ruler of Oude was so called from holding that office under the emperor.

ZAMORIN—The ruler of Calicut.

ZEMINDAR, or ZUMEENDAR—A landholder, or a person accountable to government for the land revenue.

ZEMINDARY—The holding of a zemindar; that which appertains to the functions of a zemindar, or is connected with his employment; as zemindary settlement, a settlement in which the government recognize no one but the zemindar, who is accountable for the amount of assessment upon the entire district under his administration.

ZENANA—The portion of a house allotted to the females of the family.

ZILLAH—A district.

THE END.

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